

P182: 2/6

State



STATE OF
MINNESOTA

Register

HIGHLIGHTS:

Welfare Per-Diem Rates for Nursing Home Providers
—Adopted Rules from the Department of Public Welfare

Livestock Dealer Licenses and Bonds
—Proposed Rules from the Department of Agriculture

Health Tests for Pre-Schoolers
—Proposed Temporary Rules from the Department of Education

Personnel Rules Governing State Employees
—Proposed Rules from the Department of Personnel

Reporting Costs of Legislative Questionnaires and Reports
—Advisory Opinion from the Ethical Practices Board

Minnesota Comprehensive Health Insurance Act of 1976
—Public Opinion Sought by the Department of Commerce

Preliminary Meeting Agenda
—Notice from the Ethical Practices Board

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RULES

Department of Public Welfare

Determination of Welfare Per-Diem Rates for Nursing Home Providers

The rules published in State Register Vol. 1, No. 13, pages 544-560, October 4, 1976 (1SR 543-560), are adopted and are identical in every respect to their proposed form, with the following amendments:

DPW 49 B.1.c.(1)(j)

Allowance for known cost changes. Unidentified cost increases equal to changes in the annual percentage increase in the consumer price index in Minneapolis-St. Paul as published by the Bureau of Labor and Statistics, using the October indices (new series index 1976 [[1975]] equals 100) as applied to the historical cost portion of the facilities previous year's cost less those costs relating to areas where the facility is seeking specific allowances for known cost changes. In no case may the increase be applied against the historical cost of salaries, changes in facilities or equipment, property taxes, interest, depreciation, rental payments or food costs.

DPW 49 B.2.c.

Adjustments for errors or omissions. All rates determined according to DPW Rule 49 may be subject to adjustment as a result of errors or omissions determined through audit of the provider's accounting and statistical records or by amended reports as provided by C.1.i. Such adjustments are limited to the three complete fiscal years preceding the date an audit commences. **[[If a change in ownership and/or management occurs between the audited fiscal period and date of welfare rate adjustment, the overpayment or underpayment will be applicable to the current ownership and/or management.]]** If the adjustment results in a payment from the provider to the county welfare board(s), the provider will have up to 120 days from the date the provider receives written notification of the adjustment. If the adjustment results in a payment to the provider, payment shall be made within 45 days after the date of receiving written notice of the adjustment.

DPW 49 B.4.b.

Maximum rate. Individual welfare rates will be subject to a

maximum of 125 per cent of regional average costs plus known cost changes exclusive of this limitation and flat rates under B.3.e. Regions will be those areas designated by the Governor for regional planning and economic-development purposes. Regions may be combined when deemed appropriate by the Commissioner as announced through policy bulletins. The regional averages will be calculated separately for proprietary, non-proprietary and hospital-attached facilities except the regional average costs for hospital-attached facilities shall be included in the regional average calculation for non-proprietary free-standing facilities. The maximum-rate limitations will be adjusted annually through policy bulletins. The regional averages will be determined by the Commissioner, using all available information from reports that indicate a fiscal-year end during a calendar year and will be applied to rates that become effective during the second succeeding calendar year. Facilities that have a non-calendar-year end and have been previously subject to the maximum rates may adjust the rates to the new maximum rates if previously justified by the reports.]

DPW 49 B.4.c.(4)

Maximum rate exceptions. **[[Welfare per diem rates in excess of the total of the maximum rate limitations contained in B.4.b. will be allowed to the extent of 85 per cent of the first \$2.00 per patient day over the maximum welfare rate when total allowable costs are divided by actual patient days or 93 per cent of total capacity patient days, whichever is greater.]]**

A welfare per diem rate component in excess of either of the maximum rate limitations contained in B.4.b. will be allowed to the extent of 85 per cent of the first \$2.00 per patient day over the maximum welfare rate when total allowable costs are divided by actual patient days or 93 per cent of total capacity patient days, whichever is greater provided that in no event shall this section affect a per diem rate by more than \$1.70.

DPW 49 C.1.a.(8)

Required reports. **[[When requested by the state agency, a separate audited balance sheet and statement of revenues and expenses for each nursing home owned by the same owner is required.]]**

DPW 49 C.1.e.(1)

Reporting deadlines and extensions. Required reports shall be submitted directly to the Department within three calen-

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dar months after the close of the provider's normal fiscal year. A final rate will be established within ~~[[60]]~~ 30 days of receipt by the Department of ~~[[completed]]~~ complete and accurate reports and required documentary information.

DPW 49 C.1.e.(2)

Inadequate reports. The department may reject any report that is incomplete or inaccurate within 30 days of receipt. In such case, the Department will establish a temporary rate in accordance with B.2.b. to be paid until the information is completely and accurately filed.

DPW 49 C.1.e.(3)

Section C.1.e.(2) in proposed rule has been changed to Section C.1.e.(3).

DPW 49 D.3.d.(16)

Other general and administrative costs. As provided in Minn. Stat. § 256B.47, subd. 2, the following shall not be recognized as allowable costs:

~~[[16]]~~ (a) Political contributions

~~[[17]]~~ (b) Salaries or expenses of a lobbyist as defined in Minn. Stat. § 10A.01, subd. 11, for lobbying activities

~~[[18]]~~ (c) Advertising designed to encourage potential residents to select a particular home

~~[[19]]~~ (d) Assessments levied by the Health Department for uncorrected violations

~~[[20]]~~ (e) Legal fees for unsuccessful challenges to decisions by state agencies

~~[[21]]~~ (f) Dues paid to a nursing home or hospital association.

DPW 49 D.5.a.(3)

Rental charges. The rental fee is in excess of the total amount it would pay to the owner of the facility as interest, investment allowance and depreciation. In these cases, the allowed rental amount will be limited to the amount that would be paid the owner for interest, investment allowance and depreciation.

DPW 49 D.6.b.(2)(a)

Investment allowance. Facility means the building in which a nursing home is located and all permanent fixtures attached to it. Facility does not include the land

or any supplies and equipment ~~[[not permanently attached to it]]~~ which are not fixtures.

DPW 49 D.6.b.(2)(b)

Investment allowance. Original value means the lesser of purchase price or appraised value at the time of purchase. Appraisals at the time of purchase shall be on the depreciated replacement cost basis. If a nursing home expands its facility or makes any other capital expenditure which increases the value of the facility, the cost of the expansion or capital expenditure shall be added to the original value. If the Department disputes the cost of the expansion or capital expenditure it may request an appraisal and use the appraised value as the allowed cost. ~~[[The original value may be increased each seven years on the basis of a comparative cost multiplier used by the State Department of Taxation, Property Appraisal Section, in setting assessed values. This formula shall be applied to the facility as if it were an appraisal with the resulting value decreased by a figure representing depreciation calculated on the inflated value of the facility. The first seven year period commences with a date of purchase and subsequent periods occur each seven years following the date this provision was actually used to reestablish original value.]]~~

DPW 49 D.8.a.

Capacity limitations. [The allowable cost amount per patient day for depreciation, interest, property taxes, administration and earnings allowance will be calculated by dividing such allowable costs by 93 per cent of total capacity patient days for licensed beds. Facilities qualifying for the special care rate of C.3.c.2. may adjust the capacity limitation by the same formula. The capacity limitation cannot be reduced below 90 per cent of total capacity patient days for licensed beds.]

DPW 49 D.8.d.(3)

Waiver of limitation. Skilled care facilities which have a patient population with an ~~[[annual]]~~ average length of stay of 180 days or less may be granted an annual waiver by the Commissioner of this capacity calculation and be allowed a rate based on actual patient days. The average length of stay is determined by dividing the actual patient days for the historical fiscal year by the total discharges for the historical fiscal year.

DPW 49 E.1.a.

Effective date of DPW rule 49 revisions. Unless noted otherwise, all changes are effective for rates set for cost reports received by the Department of Public Welfare after January 1, ~~[[1976]]~~ 1977. Changes in the cost-of-

RULES

capital allowance for non-proprietary facilities other than non-proprietary lease facilities are effective July 1, 1977.

DPW 49 F.1.

Severable provisions. If any provisions of the rule as adopted by the Commissioner of Public Welfare are found to be unreasonable or not supported by the evidence, the remaining provisions shall remain valid.

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PROPOSED RULES

Department of Agriculture Licensing and Bonding of Livestock Market Agencies, Public Stockyards and Livestock Dealers

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room 14, State Office Building, Wabasha Street between Aurora and Fuller Streets, Saint Paul, Minnesota on September 20, 1977, commencing at 10:00 a.m., or as soon thereafter as possible, and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, Room 300, Saint Paul, Minnesota 55104, phone (612) 296-8109 before the hearing or after the hearing until the record is closed. The record will remain open for five working days after the public hearing ends or for a longer period not to exceed 20 days if ordered by the Hearing Examiner.

The proposed rules, if adopted, would establish a procedure for administering the provisions of Minn. Stat. ch. 17A relating to the licensing and bonding of livestock market agencies, livestock dealers, packing companies and their agents; and to the livestock weighing program. Copies of the proposed rules are now available, and one free copy may be obtained by writing to the Minnesota Department of Agriculture, 420 State Office Building, Saint Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing. The department's authority to promulgate the proposed rules is contained in Minn. Stat. ch. 17A.15. A "statement of need," explaining why the department feels the proposed rules are necessary, and a "statement of evidence" outlining the testimony they will be introducing, will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for

pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, phone (612) 296-5615.

Bill Walker
Commissioner of Agriculture

Rules as Proposed

Chapter 23 Licensing and Bonding of Livestock Market Agencies, Public Stockyards and Livestock Dealers

3 MCAR §§ 1.0563 through 1.0568

§ 1.0563 Definitions.

A. As used in 3 MCAR § 1.0563 through 3 MCAR § 1.0568 the following definitions shall apply:

1. "Livestock market agency," commonly referred to as a livestock auction market or sales barn, means any person who sells consigned livestock for the account of others. It shall not include livestock breeder or feeder organizations or saddle clubs which conduct occasional special event, dispersal, or promotional sales.

2. "Feeder pig market" means a trading place where producers sell feeder pigs directly to livestock dealers and other farmers. It shall not include feeder pig markets required to be licensed as livestock market agencies.

§ 1.0564 Licensing.

A. Any person desiring to carry on business as a livestock market agency, livestock dealer, or public stockyard shall make application for licensing to and on forms provided by the commissioner.

1. Financial statements and volume reports. Each new applicant for a license to operate as a livestock market agency or a livestock dealer shall file with the application a current balance sheet and financial statement on forms provided by the commissioner. With each subsequent annual application, the livestock market or livestock dealer shall file a report of its business volume for the preceding calendar or fiscal year, as appropriate, for the purpose of determining the amount and adequacy of the applicant's bond.

If the calendar year or the firm's fiscal year conflict with the date the report of business volume is due, the applicant may give notice to the commissioner prior to

PROPOSED RULES

the original due date and file the report at such later date as the commissioner deems reasonable.

2. License requirements. Before a license is issued to a livestock market agency, a public stockyard, or a livestock dealer and its agents, the applicant shall:

(1) Satisfactorily demonstrate that his assets exceed his liabilities;

(2) Indicate that the applicant has not failed, without reasonable cause, to pay obligations incurred in connection with livestock transactions;

(3) Indicate that the applicant has complied with other statutes and rules enforced by the commissioner and the Minnesota Livestock Sanitary Board; and,

(4) In the case of a livestock market agency or a livestock dealer and his agents, file with the commissioner a valid and effective bond in the amount required in 3 MCAR § 1.0565.

3. Expiration.

a. The license of a livestock market agency or a public stockyard shall expire on December 31, each year and shall be required to be renewed annually.

b. The license of a livestock dealer and its agents shall expire on June 30, each year and shall be renewed annually.

B. A livestock dealer license issued to a corporation, association, or partnership shall be used only by the one officer or partner designated in the application to use such license.

C. If he deems it necessary for the protection of the public, the commissioner may at any time require a renewal applicant or licensee to submit a current balance sheet and financial statement.

D. A livestock market agency or a livestock dealer and its agents shall be exempt from the licensing requirements if their business is conducted exclusively at a public stockyard.

E. License fees.

1. Each applicant for a license to carry on the business of a livestock market agency, a livestock dealer,

both a livestock market agency and livestock dealer, or a public stockyard shall submit to the commissioner with his application the fee or fees required in Minn. Stat. ch. 17A.

2. There shall be no refund or proration of a fee, in whole or in part, paid for a license surrendered for cancellation, after the effective date of the license. Where a license has not taken effect, the fee may be refunded to the applicant in full upon the applicant's written request.

F. Refusal to license. In addition to grounds for refusal to license in Minn. Stat. ch. 17A, the commissioner may refuse to issue a license if the applicant has engaged in or used any unfair or deceptive practice or device in connection with marketing of livestock.

G. Discontinuance of licenses.

1. If a dealer discontinues dealing in livestock, his license, and the licenses of its agents, if any, shall automatically be invalid and shall be surrendered to the commissioner.

2. Upon the written request of the dealer or when the dealer's license is cancelled, revoked, or becomes invalid, an agent's license shall be invalid and shall be surrendered to the commissioner.

3. If a livestock market agency discontinues business, its license shall automatically be invalid and shall be surrendered to the commissioner.

4. Upon the termination of the surety bond governing the licensed operation, any license issued pursuant to Minn. Stat. ch. 17A, shall automatically become invalid and shall be surrendered to the commissioner.

§ 1.0565 Bonding.

A. Each livestock market agency and livestock dealer applying for a license shall file with the commissioner a valid and effective bond issued by a surety company licensed to do business in the State of Minnesota or otherwise meeting the requirements of 3 MCAR §§ 1.0563 through 1.0568.

B. Amount and form of bonds.

1. The amount of bond shall be not less than \$10,000 for a livestock market agency and \$5,000 for a livestock dealer, or such larger amounts as:

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PROPOSED RULES

a. Required by the Packers and Stockyards Administration; or,

b. Determined by the commissioner based on consideration of the principal's financial statement, the volume of business reported, or other factors the commissioner finds pertinent and necessary to protect the public interest.

2. A livestock market agency's bond shall be executed on a Packers and Stockyards Act form with the appropriate condition clauses deleted.

3. A livestock dealer's bond executed on a form provided by the commissioner shall be limited to the protection of claimants whose residence or principal place of livestock business is in the State of Minnesota at the time of transaction.

4. In lieu of a livestock dealer's bond executed on a form provided by the commissioner, a Packers and Stockyards Act bond executed on a Packers and Stockyards Act form with the appropriate condition clauses deleted shall be acceptable.

5. In lieu of a livestock market agency bond executed on a Packers and Stockyards Act form, a trust fund agreement executed in accordance with the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), shall be acceptable.

6. If the dealer is registered with the Packers and Stockyards Administration, a bond or its equivalent in the form of a trust fund agreement executed in accordance with the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), shall be accepted in lieu of a dealer's bond executed on a Packers and Stockyards Act form.

7. If, in the judgment of the commissioner, an adjustment in the bond amount is necessary to protect the public interest, the commissioner may, at any time, raise or lower bond requirements.

§ 1.0566 Claims against bonds.

A. Any person claiming to be damaged by any breach of the conditions of a bond on a licensee may file a complaint with the commissioner stating in writing the facts constituting the claim accompanied by documentary proof of claim against the licensee. No such claim shall be considered unless it is filed within one year of the date of the alleged breach. However, if a livestock market agency or a livestock dealer has on file with the commissioner a Packers and Stockyards Act bond and is registered with the Packers and Stockyard Administration, the terms of the bond or that federal agency's regula-

tions shall prevail in determining the time for filing claims.

In any case where a claim is timely filed, the commissioner shall have a power to require the licensee to appear in hearing for the purpose of determining all liability of the licensee under the terms of his bond. The procedures for such hearing shall be covered by Minn. Stat. ch. 17A and ch. 15.

§ 1.0567 Record keeping.

A. Every licensed livestock market agency, public stockyard, and livestock dealer shall make and retain such accounts, records, and memoranda as the commissioner deems necessary to fully and correctly disclose all transactions involved in his business, including the true ownership of such business, the date of transaction, names and addresses of buyer and seller, number, weight and price of each kind of animal purchased or sold.

B. Each feeder pig market shall register all buyers and maintain a record of registered buyers for each sale date and shall retain such records for at least one year. A certificate of sale, accurately showing the name and address of seller and buyer, number of pigs purchased, identification or description of pigs, and the sale price, shall be made on each transaction and a copy retained by the seller and the buyer for at least one year.

C. The commissioner shall at all reasonable times have access to and the right to copy any records of any livestock market agency, public stockyard, livestock dealer, or feeder pig market being investigated or proceeded against.

§ 1.0568 Packing plants and stockyards, weighing.

A. For the purpose of determining eligibility for weighing services, the average daily number of livestock shall be determined by dividing the total number of head of all classes of livestock bought or sold during the preceding one year by 260 business days.

B. Policies and procedures, weighing tickets.

1. Requirements regarding scale tickets evidencing weighing of livestock. The actual weight of the livestock as certified by the state weigher shall be imprinted on the scale ticket before the livestock are removed from the scale platform.

a. The certified weight shall never be changed.

b. The weigher shall not erase or allow to be erased or obliterate the original entry on a scale ticket.

PROPOSED RULES

Any such change or erasure shall invalidate the scale ticket.

c. Request for a correction or change shall be made by the firm for whom the livestock was weighed and signed by an authorized employee. Any official correction or change of information on scale tickets after livestock have left the scale must be made within 24 hours by the supervisor of livestock weighing, on a correction slip furnished for such purpose.

d. When reweighing is requested, the state weigher shall cooperate to the fullest extent practical under the circumstances. In the case of a dispute on weight while animals are still on the scale platform, the weigher shall reweigh the draft or may recommend that the animals be driven to another scale and reweighed. When such reweighing is actually made, the last weight shall be the governing weight, unless mutually agreed by the buyer and seller that a previous weighing shall be used.

e. Transfers of livestock to a second buyer shall be permitted when such livestock is still on the scales. To denote such a transfer, a new ticket shall be issued and the word "transfer" marked in the scale book after the entry and on the scale ticket. Tickets shall not be issued to cover transfers commonly known as "added weights."

Department of Education Instruction Division Proposed Temporary Rules Governing Pre-School Health and Development Screening

Request for Public Comment

The State Board of Education has proposed the following temporary rules pursuant to Minn. Stat. § 15.0512, subd. 5, requiring that every school board provide a voluntary health and developmental screening program for children once before entering kindergarten.

All interested persons are hereby afforded the opportunity to submit data and views for 20 days after publication of this

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State Register on the proposed temporary rule by writing to E. Raymond Peterson, Assistant Commissioner of Education or Reynold Erickson, Director of Pupil Personnel Services, Minnesota State Department of Education, 657 Capitol Square Building, 550 Cedar Street, St. Paul, MN. 55101.

Any written material received by the agency shall become part of the hearing record in the final adoption of the temporary rule.

Joseph P. Graba
Deputy Commissioner

Rules as Proposed

Chapter Thirty-Six: Pre-School Health and Developmental Screening

5 MCAR § 1.0720 Definitions. For the purposes of this chapter, terms are defined as follows:

A. "Parent" or "parents" include a biological mother or father, an adoptive mother or father, a legally appointed guardian, or such agency or other person appointed pursuant to Minnesota statutes.

B. "Referral" — An organized system for providing information on agencies or specialists to be utilized in diagnosis and treatment of problems identified through the screening procedure.

C. "Screening" — Use of procedures to identify children with disease or abnormality and to identify those in need of more definitive study of physical or developmental problems.

D. "Screening personnel" — Professional, paraprofessional, and volunteer staff in local schools or contracted agencies who will conduct activities related to the pre-school screening program.

E. "Pre-school health and developmental screening program" — Systematic procedures developed to conduct screening of pre-school children in accordance with Minnesota statutes.

§ 1.0721 Local school plan.

A. Each school district shall submit to the department of education its plan for implementation of a pre-school screening program to be fully operational for

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children entering the fall of 1978. Such a plan shall have the following components:

1. Procedures to inform parents of pre-school children concerning the opportunity to participate in the pre-school screening program.

2. Information on the location and accessibility of facilities to be utilized and the frequency of screening.

3. Staff to be utilized, and their qualifications which shall include professional training, specialized training completed, and plans for in-service training. Staff must meet the qualifications listed in 5 MCAR § 1.0722.

4. Procedures to be utilized in screening each component area, in accordance with standards listed in 5 MCAR § 1.0725.

5. Procedures to be utilized in reporting results of screening to parents.

6. Procedures for integration of information in school records and dissemination to school staff where parental consent has been received.

7. Referral procedures to be utilized when a condition is identified in need of diagnosis or treatment.

8. Procedures to be utilized to follow up on referrals made.

9. Coordination with other screening programs.

B. If schools do not supply all information indicated above, payment, including advance payment, shall not be made until the information is received by the department of education and approval given.

C. If services are contracted, to the extent that information included in A. of this section is included in the contract, a copy of the contract shall satisfy the reporting requirements of this section.

D. Exceptions to the statutorily required screening components may be made by the state board upon submission to it of evidence that a local board is not able to supply such screening due to financial limitations.

E. Plans for implementation of the screening program shall be made annually. However, after the initial plan, subsequent plans need only indicate changes or revisions in the program.

§ 1.0722 Staffing. Screening shall be performed by qualified personnel. A person may perform one or more of

the functions described in A through F of this section provided appropriate qualifications are met. Each pre-school health and developmental screening program shall include the following screening personnel meeting the stated minimum qualifications:

A. Nurse.

1. Who must be registered and currently licensed in the state of Minnesota.

2. Who must attend training seminars provided by the Minnesota department of health or participate in equivalent training programs designated by the Minnesota department of health to prepare an individual to perform child screening.

B. Clinic coordinator who shall be responsible for administration of all components of the pre-school screening program.

C. Vision and hearing technician.

1. Who has been trained by the Minnesota department of health vision and hearing consultants to perform vision and hearing screening in accordance with Minnesota department of health standards, or

2. Who has been trained by a program providing equivalent preparation as determined by the department of health.

D. Laboratory assistant, for programs with a laboratory component.

1. Who must be registered as a laboratory technician, or

2. Who has been trained to perform the specific tests used in the screening session as determined by the department of health.

E. Clinic assistant.

1. Who has been trained by a nurse or local consultant staff person in administering one or more of the health or developmental screening tests.

F. Dental assistant.

1. Who must be a licensed dental hygienist or a registered or certified dental assistant, or

2. Who has been trained by the Minnesota department of health or approved by the Minnesota department of health as having been trained to perform specific

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dental checks in accordance with Minnesota department of health standards.

§ 1.0723 Participation in program and delivery of services.

A. All children in the state of Minnesota shall have available without cost the services of trained personnel to screen for possible health and developmental problems once prior to entering school.

B. Participation in the screening program by children shall be voluntary, and shall not be required for entry into school. Parents may elect to participate in only a part of the screening program if they so desire.

C. Screening services shall be provided by all local school boards, acting individually or acting in cooperation. Every school board shall contract with or purchase service from an approved early and periodic screening program in the area wherever possible, and shall integrate and utilize volunteer screening programs. A school board may contract with health care providers to operate the screening programs and shall consult with local societies of health care providers.

D. The pre-school screening program shall be coordinated as far as possible with other health screening programs to eliminate duplication of services and provide more efficient administration.

§ 1.0724 Screening procedures.

A. Screening procedures shall, to the extent the school board determines they are financially feasible, include the following components:

1. An individual review of past and present health status including prenatal, psychosocial, family health, nutrition intake and immunizations.

2. Developmental screening tests of the child's development in the areas of fine and gross motor skills, speech and language, socialization and self-help skills by using procedures which shall include:

a. Parent report of the child's functioning in the areas of skills development, emotional and behavior status.

b. Direct observation of the child's functioning utilizing selected developmental screening instruments approved by the department of education.

3. Hearing tests for deviations from the normal range of auditory acuity and/or middle ear function.

4. Tests for possible eye health problems and visual acuity and muscle balance.

5. Determination of need of dental attention.

B. As of July 1, 1978, the screening procedure shall, in addition to the components included in A. of this section, and to the extent the school board determines they are financially feasible, include the following components:

1. Assessment of the unclothed child with respect to height, weight, physical and oral condition, head circumference and blood pressure measurements as specific to the child's age and sex.

2. Laboratory tests as recommended by the department of health on the basis of age and sex of the child.

3. Assessments of nutritional status by measures approved by the department of health.

C. If requested by the parent, health history and physical examination completed by a personal physician within the previous 12 months or within 60 days after the provision of other screening tests shall be accepted by the school district for inclusion in the school records in lieu of comparable information collected in the screening program.

D. Data on individual students is private as defined by state statutes, and shall not be disclosed to a third party, including the district, without the informed consent of the parent. All information must be made available to the parents.

E. Upon identification of a condition in need of diagnosis or further attention, parents will be informed of appropriate agencies or specialists capable of performing needed services. School boards shall ensure that an appropriate follow-up process is available as approved by the department of education.

F. Data on individual students obtained in the screening program shall be incorporated into school district records, except as indicated in D of this section.

G. Diagnosis, treatment or therapy shall not be provided in the pre-school screening program but this does

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not preclude such services as a part of a related program.

§ 1.0725 Payment of aids.

A. Payment of aids for the costs of screening will be made as provided for by legislative appropriations.

B. An advance of 50 percent of the estimated aid payment may be made upon request.

C. No aid payment shall be made for screening any child more than once.

Department of Personnel Employee Training, Reallocation Pay and Cooperative Use of Eligible Lists

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the State Office Building, Room 83, Aurora and Wabasha Sts., St. Paul, Minnesota 55155, on September 21, 1977, commencing at 9:30 a.m., reconvening at 7:00 p.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, Hearing Examiner, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, 612-296-8112, either before the hearing or within 5 working days after the close of the hearing.

The proposed rules, if adopted, would establish standards for employee training, the cooperative use of eligible lists, and reallocation pay and amend existing rules relating to the coverage of the rules, labor service, unclassified service, contractual services, career executive service, allocation and reallocation of positions, selection process, eligible lists, reemployment lists, filling of vacancies, probationary periods, seniority, hours of work, holidays, leaves of absence, travel and relocation expenses, hazardous duty pay, and occupational categories, and renumber many definitional rules. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 43.05, subd. 2; § 43.18, subd. 18, 19, 20, 25; § 43.212; § 43.32, subd. 12; § 43.323; § 43.326; § 43.327; and Minnesota Code of Agency Rules 1977, ch. 455, § 23.

Copies of the proposed rules are now available and one free copy may be obtained by writing to the Department of Personnel, 3rd Floor Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Richard W. Session
Commissioner of Personnel

Rules as Proposed

Persl 4 Employees covered by personnel rules. Unless otherwise specified, the Personnel Rules apply only to employees in the executive branch of government. All Personnel Rules apply to all classified employees.

Certain Personnel Rules cover unclassified employees which include, unless otherwise specified, all executive branch unclassified employees except those in the offices of the constitutional officers, and those employees [included in Minn. Stat. § 43.064] in the state university system, **Higher Education Coordinating Board**, and the state community college system **whose salaries are established under the provisions of Minn. Stat. § 43.064.**

Persl 9 Labor service. Classes of positions involving unskilled labor, as designated by the Commissioner, shall comprise the labor service.

The Commissioner may at any time review the duties performed by any labor service employee. The appointing authority and the employee shall supply any information requested by the Commissioner in connection with such review. If the Commissioner thereafter determines that the duties performed are not properly those of a position in the labor service, the Commissioner shall take action deemed necessary to comply with the law and these rules.

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Any personnel action affecting an employee or a position in the labor service shall be reported to the Commissioner by written notice upon such form as the Commissioner may prescribe.

A. [(a)] Reports of appointment, termination, or interruption of employment in the labor service shall be effected as follows:

[(1) Temporary appointments shall not exceed seven months in any one calendar year; and shall be reported on forms prescribed by the Commissioner.]

1. [(2)] Employees in the labor service who have been employed for a total of [ten] **six** months in a period of twelve consecutive months shall be known as classified [civil service] **tenured** laborers and shall receive the same tenure rights and benefits given other classified employees of the state not in the labor service. The appointing authority's certificate that the employee has met these conditions will establish the employee's tenure rights. Such certification shall be in the manner and form prescribed by the Commissioner.

2. [(3)] [An employee with classified civil service labor tenure] **A tenured laborer** [as defined in the law] shall be given written notice of disciplinary action and shall have rights in accordance with law (Minn. Stat. § 43.24).

B. [(b)] Promotion from the labor service. [(1)] [Employees in the labor service] **Tenured laborers** shall be eligible to compete in promotional selection processes when they [have worked ten of twelve consecutive months preceding the promotional examination and] meet the requirements specified in the **examination** announcement.

Persl 10 Temporary designation of positions in the unclassified service. The Commissioner may authorize the designation of a position in the unclassified service for a limited period of time. The appointing authority shall report to the Commissioner the description of the position and the conditions under which it is to be established, **which serve to limit the duration of employment, the expected termination date and** [as well as] the nature of the function to which it is to be assigned. Any position which has been designated in the unclassified service by the Commissioner, in accordance with this rule, and which will continue for longer than [one] **two** years, shall be reviewed **at the end of the second** [each] year by the Commissioner to determine whether it shall continue in the unclassified service. No position, **except student worker positions**, assigned to the unclassified service in accordance with this rule shall

continue longer than three years in the unclassified service **and, except as provided by Minn. Stat. § 15.61, no employee shall continue in a position or positions established in the unclassified service under the provisions of this rule to perform the same function in the same agency for a total of more than three years.** (Minn. Stat. § 43.05)

Persl 11 Contractual services. Notwithstanding Persl 4, this rule also applies to all unclassified employees in the executive branch. Specialized personal services rendered by an individual to the state under contract as an independent contractor as a part of, or incidental to, the individual's regular professional occupation, and not as a state employee, or by individuals employed by a firm contracting with the state, shall be designated as a contractual service and shall not be subject to the provisions of these rules. [The appointing authority shall report each such contractual service to the Commissioner on such forms and in such detail as the Commissioner may prescribe. If, after such investigation as is deemed necessary, the Commissioner determines that the proposed contractual service constitutes an employer-employee relationship, the Commissioner shall so notify the appointing authority that such proposed contractual service is not consistent with the provisions of the State Personnel Law. No payment shall be made under a contract until the Commissioner has determined that such proposed contractual service is consistent with this rule. Notification of an appointing authority that a proposed contractual service is consistent with the provisions of this rule signifies only that the service does not constitute an employer-employee relationship and does not indicate that funds are available or any approval of any provision of the contract.]

A. [(a)] In determining whether the services to be rendered constitute contractual service or an employer-employee relationship, the following guidelines will be used:

1. [(1)] Consultants generally contract to produce certain results or conclusions within given specifications.

2. [(2)] Consultants are generally responsible for approaches, techniques, and results.

3. [(3)] Consultant's services shall be offered and available to the public, and to the State incidentally as a prospective user of such consulting services.

4. [(4)] Consultant services are offered to the State as a part of or incidental to the consultant's regular occupation.

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5. [(5)] Consultant's contracts shall extend for a limited period, with clearly specified time limited indicated in the contract, to attain specific results.

6. [(6)] Except where provided in the contract specifying special circumstances related to the nature and requirements of the work to be performed, consultants shall not perform services on state premises, use state equipment or supplies, or utilize state employees.

7. [(7)] Consultants generally deliver a completed work, usually organized into a formal report with recommendations.

B. [(b)] In addition, to the financial information, the contract shall specify results to be accomplished, delivery dates, and the manner in which the contractual arrangements are to be conducted.

C. [(c)] Retired state employees may be used for contract employment providing their services are necessary for the completion of a specific project in which the former employee was engaged at the time of retirement.

D. [(d)] No agency of the state shall contract for the services of persons who, were they members of the classified service, would occupy positions assigned to schedule "C", except in accordance with law. (Minn. Stat. § 43.20, subd. 6)

Persl 12 Career executive service. The Commissioner shall designate positions within the classified service of the State to be eligible for inclusion in the career executive service. Eligible positions will carry basic responsibility for high-level professional or scientific competence, policy determination, leadership, or the internal management and administration of a department or other major state unit. Appointments shall be made in the form and manner as prescribed by the Commissioner and shall be made only for employees who have achieved permanent or probationary classified civil service status in the class to which they are assigned at the time they have met the requirements for such eligibility and have passed a selection process developed by the Commissioner. The selection process shall take into consideration the candidate's efforts at self-development, specific goals, objectives and accomplishments, and perspective on the overall program and priorities of state government.

An employee in the C.E.S. need not requalify for the C.E.S. upon being promoted to a higher classification.

Since one of the major objectives of the C.E.S. is employee development, employees in the C.E.S. may accept temporary mobility assignments, not exceeding two years, within the state service, to other units of government, or private industry, with the approval of the Commissioner.

The salary of incumbents on such assignments will not be adversely affected. (Minn. Stat. § 15.51 to § 15.59)

[Appointing authorities have discretion with respect to the] **The frequency and amount of salary increases granted C.E.S. incumbents shall be in accordance with the compensation plan established by the Commissioner, and [but] such increases shall be related to the accomplishment of challenging objectives and overall accountabilities of the position.** (Minn. Stat. § 43.12, subd. 20 [19])

Persl 18 Allocation of positions. When a new classified or unclassified position is to be established; [or] a vacant classified or unclassified position is to be filled, **or the duties and responsibilities of a classified or unclassified position are changed as a result of changes in the organizational structure of an agency or other action resulting in abrupt changes in the duties and responsibilities,** the appointing authority shall notify the Commissioner in the prescribed manner, and the Commissioner shall allocate the position to the appropriate class in the classified service or in the unclassified service, where possible, to a comparable class.

The Commissioner, after making an allocation or comparison, shall notify the appointing authority of that action. The action shall become immediately effective, but the appointing authority may within ten days file with the Commissioner an application for reconsideration, together with any written evidence by way of affidavits, statements or exhibits which the appointing authority may desire to have considered. The Commissioner shall act promptly upon that application and shall notify the appointing authority of the final action.

Persl 19 Reallocation of positions. If, because of [the] changes occurring **over a period of time in the kind, responsibility or difficulty of work performed** in [the organizational structure of an agency, changes in the duties of the position, or for some other reason] a classified or unclassified position, it seems to be improperly allocated, or compared, the Commissioner shall, independently or upon request of an appointing authority or permanent employee, investigate the duties of the affected position. Following the investigation, the Commissioner may reallocate, change the allocation of, or recompare the position to an appropriate class. In making a request for a review of a position, the appointing authority or permanent employee shall set forth specifically the changes that have occurred in the particular position which warrant the requested action **along with other documentation prescribed by the Commissioner.** The Commissioner shall notify the affected employee and the appointing authority of the final decision.

Persl 21 Delegation of classification authority. The Commissioner may delegate the authority to allocate **and reallocate** positions to the appointing authority or the personnel

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designee. Such delegation shall include a list of the classes [or job families] where such delegated authority is authorized. Any delegation of such authority is subject to review by the Commissioner, who may modify any allocations made[,] for consistency with the state classification plan. The decision of the Commissioner shall be final.

The Commissioner shall periodically review authority that has been delegated, and modify such authority to insure an effective administration of the classification program consistent with the Personnel Law.

Persl 22 Class specifications. The Commissioner shall provide, and may amend, written class specifications for any class in the classification plan. Each of the class specifications shall include the class title, a general description of the scope of the work, as well as a statement of the qualifications an incumbent should possess to enable that individual to perform the duties of the particular position with reasonable prospects of success. **Where a classification consists of only one position, the approved position description may, at the discretion of the Commissioner, constitute the specification for that classification.**

Specifications of the classes of positions in the classification plan are hereby declared to have the following force and effect:

A. [(a)] Definitions are descriptive and not restrictive, tending to indicate the kinds of positions allocated to classes, and shall not be construed as limiting in any way or modifying the power of the appointing authority, to appoint, direct, and control the work of employees. The use of a particular expression or illustration of duties shall not be held to exclude others not mentioned that are of a similar kind or quality.

B. [(b)] In determining the class to which any position shall be allocated, the definition of each class shall be considered as a whole, and consideration shall be given to the general duties, areas of accountability, specific tasks, responsibilities, qualifications, as well as relationships to other classes, to the extent that they clearly indicate a picture of the kind of employment the class is intended to embrace.

C. [(c)] Qualifications commonly required of an incumbent for positions of any class, such as honesty, integrity, initiative, and willingness to cooperate, shall be deemed to be implied as qualification requirements for entrance into, and continued employment in each class, even though they may not be specifically mentioned in the class specifications.

D. [(d)] Specifications for any class, as interpreted herein, **and job analysis data and other relevant information, where available**, shall constitute the basis and source of authority for the development or modification of screening devices or techniques to be used in examining for the class.

Persl 24 Work out of class. When an employee is expressly assigned to perform all the duties of a position allocated to a higher level classification that is temporarily unoccupied for reasons other than vacation or short periods of sick leave and such work exceeds 15 consecutive work days in duration, the employee shall be paid for [the duration] **all hours** of the assignment, at the minimum of the salary range for the higher class or receive a one-step increase, whichever is greater. Appointments to these assignments shall be made in accordance with Personnel Rules 81 through 91. If the assignment is to a position at an equal or lower level classification, the employee shall be paid at the employee's current rate of pay.

Persl 28 Wage and salary plan. Salary schedules adopted pursuant to the Minnesota Statutes, together with the provisions of these rules or such amendments as may be made in accordance with the law, shall constitute the official wage and salary plan for all positions in the classified service **and for all unclassified positions compared to the classified service.** (Minn. Stat. § 43.12)

Persl 29 Administration of the wage and salary plan. Persl Rule 29, except for subdivisions [(f)] **F.** and [(g)] **G.**, also applies to those unclassified positions which have been directly compared to [a class in] the classified service. The following provisions assume that funds are available and expenditures have been authorized by the Commissioner of Finance.

A. [(a)] Beginning salary. The minimum rate of pay shall normally be paid upon appointment to a class. In schedules A and C, the appointing authority may, however, make an original appointment within the salary range but not to exceed the third salary step.

All original appointments beyond the minimum rate for a class **shall be documented in the form prescribed by the Commissioner and** shall be based upon the exceptional qualifications of the candidate or the unavailability of candidates at the minimum rate.

In the Special Teachers salary schedule, appointments may be made up to and including the sixth step under conditions outlined in the compensation provisions relating to that schedule.

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B. [(b)] Salary on promotion. Promotional increases shall normally be of one or two salary steps, depending on the actual increase in responsibilities assumed upon promotion, unless greater adjustment is necessary to bring the employee's salary to the minimum of the new pay range. Any promotional increase beyond that provided for above must be approved in advance by the Commissioner based on documentation to support such additional increase. No salary increase may be granted which would place the employee's rate of pay above the authorized salary range.

C. [(c)] Salary upon reemployment or reinstatement. If a former employee is reemployed or reinstated into a class in which that employee was previously employed, the appointing authority may make an appointment at the same rate of pay the employee had been receiving at the time of separation from the state service, plus any automatic adjustments that may have been made since the employee left the state service. Appointments above such rate of pay must be approved by the Commissioner before they can take effect.

D. [Persl 29] [(d)] Salary increases. Salary increases may be granted in accordance with law. (Minn. Stat. §§ 43.12, 43.121, 43.122, 43.126, 43.127 and other applicable provisions.)

E. [Persl 29] [(e)] Achievement awards. In addition to being eligible for normal salary increases, employees whose positions are assigned to salary Schedule A are eligible for achievement awards based on demonstrated outstanding performance. Increases in this schedule must be submitted and awarded within the context of a results-oriented management or standards of performance system which has been approved by the Commissioner. An achievement award shall be awarded as prescribed by law. Achievement awards shall be administered in a manner that will encourage and recognize excellence among employees. Achievement award increases may be granted up to 30% of the classified and 30% of the unclassified employees whose salary ranges are set by direct comparison to the classified service authorized for the department at the beginning of the fiscal year. Unclassified positions where the salaries are set by statute are not to be included in the calculations of the number of allowable increases for unclassified employees.

F. [(f)] Salary decreases. Salary decreases for just cause may be made to reduce the salary of the employee within the salary range. In the case of a permanent employee, written notice of intent to effect such reduction in pay, and the reasons for such action, shall be given to the employee at least 5 working days prior to the effective date of the reduction and a copy submitted to the Commissioner prior to the effective date of the reduction. The permanent employee so affected may request a hearing before the Board as provided in the law.

G. [(g)] Salary on transfer. An employee who is trans-

ferred to a different department in the same class or to a similar class shall receive the salary being paid before such transfer. In any case of transfer, no employee shall receive a rate of pay below the minimum of the range for the class to which such employee has been transferred.

H. [(h)] Salary on demotion. An employee who has been demoted to a class in a lower salary range shall be paid a salary rate within the range of the class to which such employee has been demoted except as provided in law. (Minn. Stat. § 43.12, subd. 26)

I. [(i)] Total remuneration. Notwithstanding Persl Rules 4 and 29, Rule twenty-nine (i) applies to all classified and unclassified employees in the executive branch. Except as otherwise provided in these rules, no employee shall receive pay in addition to the salary authorized for services rendered either in the discharge of the assigned ordinary duties, or additional duties which may be performed by the employee or which the employee may undertake or volunteer to perform.

An employee may receive a separate salary from more than one state agency for hours worked during the same pay period under the following conditions:

1. [(1)] The work assignments performed for another state agency is not part of the employee's normal duties; the employee is qualified to perform the assignment; and the appointing authorities of both agencies and the Commissioner approve[s] the assignment in advance; or

2. [(2)] An employee may be appointed to less than full-time positions in more than one state agency, provided the employee has been appointed under the provisions of these rules, and the combined established work schedules do not exceed a normal 40 hour work week.

3. Employees in payroll status in two or more agencies for a total of 75% or more of the time, because of concurrent appointments, shall be eligible for state paid insurance in the same manner as other employees. The state paid premium for such eligible employees shall be borne by the agency in which the majority of the time is worked.

J. [(j)] Hourly rates. Hourly rates of pay shall be paid in accordance with law. (Minn. Stat. § 16.027 and § 43.01, subd. 9)

K. [(k)] Project employment. The Commissioner may authorize a rate of pay which may exceed the maximum of the range provided by not more than 70% where skilled craft employment is on a strictly project basis. In cases of project employment, the employee shall not be entitled to any other benefits.

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Project employment for purposes of this rule shall be restricted to a planned work program which will normally be completed in a specified time period and is not of a seasonal or regularly recurring nature.

Persl 31 [(Deleted March 15, 1976)] **Retroactive pay upon reallocation. Except for reallocations resulting from a position classification study of an agency or subdivision thereof initiated by the Department of Personnel or an appointing authority, if the incumbent of a position which is reallocated upward to a class existing at the time of the request receives a probationary appointment to the reallocated position, pay for the reallocated position shall commence up to sixty calendar days prior to the incumbent employee's probationary appointment to that position. In no event shall such retroactive pay commence earlier than fifteen calendar days after the receipt in the Department of Personnel of a reallocation request determined by the Department of Personnel to be properly documented.**

Persl 39 Eligibility to compete.

A. [(a)] Open competitive selection processes. Competitive selection processes shall, after public notice, be open to all applicants who meet the reasonable standards or requirements fixed by the Commissioner with regard to factors that relate to the ability of the candidates to perform [with reasonable efficiency and effectiveness in] the duties of the position **with reasonable efficiency and effectiveness**. Persons with physical disabilities who, when demonstrated to the satisfaction of the Commissioner, could not be selected in the normal manner, shall be selected in such a manner that will fairly test their ability to perform the duties of the position.

In the case of an applicant who is blind, the department will provide the applicant with either a braille selection process, or the services of a reader chosen by the applicant with the approval of the department, or subject to the approval of the applicant, whichever means of screening is available to the department.

No applicant shall be rejected because the applicant lacks educational qualifications, unless such qualifications relate directly to the duties of the class for which the announcement is made, or where such educational requirements are established by federal agencies making grants-in-aid or otherwise contributing to state programs.

B. [(b)] Promotional selection processes. Promotional selection processes shall be open to all permanent or proba-

tionary employees in the agency or other organization unit for which the selection process is being held who meet the requirements described in the announcements. All classified **employees employed on an unlimited basis** and all unclassified state employees in any branch of state government who meet the established requirements may apply for promotional selection processes for positions designated as managerial or professional.

[If the incumbent of the reallocated position has not participated in the selection process for which an unexpired list exists for the class to which the position has been allocated, the employee shall be permitted to complete the same or equivalent selection process. Where significant changes over a period of time have occurred in the kind, responsibility or difficulty of the work performed in a position, the Commissioner may certify only the name of the incumbent if:]

[(1) The changed classification is in the same occupational group as the initial classification of the position; and]

[(2) The operating agency submits a written request detailing the basis for the action; and]

[(3) The action leading to the change in the allocation of the position did not result from the assignment of the incumbent to work out of class in a manner so as to bypass the selection process, to a vacancy in a new position which had not been allocated to a class, or other action taken without regard for the appropriate selection process.]

[In any case, where the incumbent of a position which has been reallocated is ineligible to continue in that position in the new class and is not transferred, promoted, or demoted, the layoff provisions of the Personnel Law and Rules apply.]

C. Selection processes for incumbents of reallocated positions. The incumbent of a position which has been reallocated in accordance with Personnel Rule 19 shall be permitted to compete in the same or equivalent selection process as last given for the class to which the position has been reallocated, provided:

1. The incumbent did not participate in a written or competitive oral examination process for such a position less than six months previous to the date of reallocation;

2. The reallocation did not result from the assignment of the incumbent to work out of class in a manner

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so as to bypass the selection process or to a vacancy in a new position which had not been allocated to a class, or from other action taken without regard to the appropriate selection process.

If the incumbent examined in accord with the above successfully completes the examination process, notwithstanding the provisions of Persl 84, the Commissioner may certify only the name of the eligible incumbent, provided the position has been reallocated to another class in the same occupational category as the initial classification.

In certifying eligibles to a position reallocated to a class in a different occupational category than the initial classification of the position the provisions of Persl 84 shall apply.

Where the incumbent of a position which has been reallocated has failed to qualify in the selection process and/or otherwise is ineligible to continue in the position in the new class, the employee must be removed from the position within 30 calendar days from the date of notification to the appointing authority of the incumbent's failure to qualify.

Where the incumbent is ineligible to continue in the position and is not transferred, promoted or demoted, the lay-off provisions of the Personnel Law and Rules apply.

Persl 40 Applications and admission.

A. [(a)] The form of application. The application shall be made on forms prescribed by the Commissioner. The forms shall require information requested by the Commissioner and requested on the announcement. The application form shall contain a statement that wrongful statements on the application may subject the applicant to the penalty provisions of Minn. Stat. § 43.35 and Persl 108, 110 or 111.

B. [(b)] Selection processes. Persons [who submit] whose applications are received within the Department of Personnel on or before the last date for filing, and whose applications clearly show that the applicants meet the requirements for admission to the selection process as specified in the official announcement, shall be admitted to compete in the selection process for which they are applying. Where doubt exists as to whether an applicant meets the admission requirements, the Commissioner may conditionally authorize the applicant to participate in the selection process, but such action shall not be construed as entitling the applicant to become eligible for certification or appointment until the circumstances leading to the conditional acceptance are clarified to the Commissioner's satisfaction. Each individual whose application has been accepted shall be notified of the date, time and place for those parts of the

selection process which require the candidate to appear in person. No person shall be admitted to any part of the selection process without proper authorization, or satisfactory evidence of acceptance or conditional acceptance of the application by the Commissioner.

Persl 46 Rating results of selection processes.

A. [(a)] Appropriate scientific techniques and procedures shall be used in scoring the results of selection processes and in determining the relative ranking of competitors. Such techniques may include electronic data processing of test answer or experience and training rating forms filled out by the applicant. [In any case, the] The minimum rating for which eligibility may be achieved shall be set by the Commissioner, taking into account the number of vacancies anticipated during the term of the eligible list. Final rank may be based on all factors of the selection process and other qualifying elements as shown on the competitor's application or [the] other verified information. Final ratings of each competitor shall be determined by averaging the earned score of each part of the selection process in accordance with the weights established for each part prior to the date of any part of the selection process. All competitors may be required to obtain at least a minimum rating in each part of the selection process in order to receive a final passing score or to be rated on the remaining parts of the process.

B. [(b)] The Commissioner may announce, in advance of the establishment of an eligible list, the maximum number of competitors who shall have their names placed on the list, or who shall be permitted to compete in any of the separate parts of the selection process. Under such procedure, those considered as having passed and who are permitted to take the remainder of the screening process shall be the set number of candidates scoring highest in the process or part thereof. The Commissioner may also establish a procedure for admitting candidates to a subsequent stage of the selection process in rank-order of score on the previous stage and candidates may be invited to complete the examination process as the need to create or enlarge an eligible list is determined.

C. [(c)] [Rating of Competitors for the Lower Class.] Competitors failing to qualify as eligible for the class for which the screening process was conducted may, with the approval of the Commissioner, be rated with reference to their eligibility for a lower class for which a selection process is being conducted and in cases where competitors signify their willingness to accept appointment to such lower class. If found eligible, their names may then be added to the eligible list for such lower class.

Persl 47 Veterans' preference. Veterans and spouses of deceased veterans, as defined in Minn. Stat. § 43.30, shall be given a credit of five points in addition to the rating

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earned in the competitive selection process. Names of veterans shall be placed on the list in the order of their final rating, including the preference credit. Veterans with a compensable service connected disability, spouses of deceased disabled veterans, and spouses of disabled veterans who are unable to qualify because of such disability shall be given a credit of ten points in addition to the rating earned in the competitive screening process.

Veterans with a service connected disability of fifty per cent or more, surviving spouses of veterans so disabled, and spouses of such disabled veterans who because of the disability are unable to qualify shall be given a credit of 5 points in addition to the rating earned in the promotional selection process for their first promotion after securing public employment. (Minn. Stat. § 43.30)

Preference points will be applied only after the [veteran] **applicant** has attained a **final** passing examination score.

Persl 61 Reemployment list. The reemployment list shall contain the names of all permanent or probationary employees laid off in the class of employment, and the names of former permanent or probationary employees in the class whose written applications made within three years of separation in good standing are approved by the Commissioner. The Commissioner shall consider the recommendation of the last appointing authority before approving applications of former employees and shall approve or disapprove each application considering the quality of service as evidenced by service reports submitted by the last appointing authority. Names shall be placed on the reemployment list based on the quality of service as indicated in the individual's performance appraisals. A person may remain on a reemployment list for up to three years and must return to state service within four years of separation.

At the request of the employee, the name of a laid-off employee shall be placed on the reemployment list for all classes in which the employee possessed permanent or probationary status prior to layoff and for locations and employment conditions for which the employee is eligible and has expressed a willingness to accept employment. Laid-off employees who wish to have their names placed on a reemployment list or lists must notify the Department of Personnel within 3 years of date of layoff indicating those classes, locations and employment conditions they are willing to consider.

Persl 65 Removal of names from eligible lists. In addition to the causes stated in Minn. Stat. § 43.14, the Commis-

sioner may remove names from eligible lists permanently or temporarily for any of the following reasons:

A. [(a)] Appointment through certification from such list to fill a permanent position.

B. [(b)] Appointment to fill a permanent position through certification from a list for another class at the same or higher salary. If an employee is on more than one eligible list at the same or higher salary, the employee may be kept on other eligible lists by a written request to the Commissioner.

C. [(c)] Failure to respond within [ten] **seven** days to a written inquiry of the Commissioner relative to availability for appointment or failure to respond within [ten] **seven** days to a written inquiry of an appointing authority sent by certified mail relative to availability for employment.

D. [(d)] Failure to respond within two days to a telegraph inquiry from the Commissioner relative to availability for appointment.

E. [(e)] Declination of appointment under such conditions as the eligible previously indicated would be acceptable.

F. [(f)] Failure to report for duty within the time prescribed by the appointing authority.

G. [(g)] Expiration of term of eligibility on the eligible list.

H. [(h)] Failure to maintain a record of current address [and telephone number] with the department. For this purpose, the return of a letter by the postal authority, if properly addressed to the last address on the records, [or the telephone number given is not correct,] shall be deemed sufficient grounds for such removal of the name from the eligible list.

I. [(i)] In the case of agency promotional lists, appointment or transfer of an employee to a new agency or another duly established organizational unit.

J. [(j)] In the case of promotional lists, upon termination in the state service.

K. [(k)] In the case of promotional lists upon certification to three separate positions except that the name of an individual so removed shall continue to be referred to positions in the class in the department which gave the indi-

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vidual a satisfactory or better rating in the selection process for such class.

L. [(l)] Upon certification at least seven times to the same or different appointing authorities where no appointment is made.

M. [(m)] Subsequent documentation that the candidate on the eligible list does not meet the requirements of the position(s) to which such candidate may be certified.

Persl 66 Restoration of names to eligible lists. Any eligible whose name is removed from an eligible list as provided above may make a written request to the Commissioner for the restoration of that individual's name to such list for the duration of the list. Such request shall set forth the reasons for the conduct resulting in the removal of the name from the list, and shall further specify the reasons advanced for restoration of the name to the list. The Commissioner, after full consideration of the request, may restore the name to the eligible list, or may refuse such request.

Former employees reinstated in the state service shall have their names restored to an existing statewide promotional list from which they were removed because of separation from the state service, provided the Commissioner approves a written application by the employee for such action and the eligible list is still in existence.

Former employees reinstated in the state service shall have their names restored to any existing agency promotional lists from which they were removed because of separation from the state service, provided written application by the employee for such action is approved by the appointing authority and the Commissioner.

Probationary or permanent employees whose names have been removed from an agency promotional list because of transfer or original appointment with probationary or permanent status under a new appointing authority may have their names placed on the agency promotional list for the same class in the new agency, provided written application is made by the employee during the duration of the list from which the name was removed, and this application is approved by the new appointing authority and the Commissioner. [An appointing authority may make any of the above cited requests on behalf of an eligible employee.]

An appointing authority may make any of the above cited requests on behalf of an eligible employee.

Persl 68 Cooperative use of eligible lists by governmental merit system jurisdictions. Upon the request of an appointing authority, and after due consideration of the needs and interests of the state service, the Commissioner may authorize the use of an eligible list established by another governmental merit system jurisdiction

employing U.S. Civil Service Commission-approved standards to make an appointment to a classified position in the state service, providing the job classification for which the eligible list was established in the cooperating jurisdiction is determined to be similar in job duties to the position for which it is to be used in the state service and that the selection process measures knowledges, skills and abilities essential for satisfactory performance in the position in the state service for which the list will be used. Any eligible list adopted under this rule shall be considered to constitute an open competitive list and the ranking and referral of candidates' names shall be in accord with the provisions of Personnel Rules 82 and 84.

Persl 82 Methods of filling vacancy upon receipt of request for an employee. The Commissioner shall certify the proper number of names from the appropriate eligible list or authorize some other kind of appointment as provided in these rules. No appointment except an emergency appointment shall be made without such certification or prior authorization. If the position to be filled is a permanent one, the Commissioner shall certify from the agency layoff list. If no such layoff list exists, the Commissioner shall certify from the agency promotional list. In the absence of the above lists, the Commissioner shall certify from the eligible list deemed appropriate, taking into consideration any requests made by an appointing authority as to the list to be used.

However, if an appointing authority submits specific written statements that the interests of the state would be served best by certification from some list other than agency promotional lists and that the use of such list is not practical, or the Commissioner finds that there are better qualified people on other eligible lists, the Commissioner may certify names from some eligible list other than the agency promotional list. In the case of vacancy in a managerial or professional class, the Commissioner shall certify only from the layoff list, the state-wide promotional eligible list, **the reemployment list, lists secured from other jurisdictions under the provisions of Persl 68** or an open competitive list as provided for in the Personnel Law.

Persl 85 Permanent appointments from eligible lists. All vacancies in positions in the classified service having a duration in excess of six months shall be filled by appointment through certification from eligible lists except as otherwise provided in these rules. **In making an appointment from an eligible list the appointing authority shall give consideration to the quality and length of service of any eligible state employees in addition to the primary consideration of the knowledges, skills and abilities of the candidates in relation to the specific vacancy and the needs of the agency.** An appointment shall be effective on the date stated on the report of appointment.

Persl 97 Duration of probationary period. All original and

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promotional appointments shall be tentative subject to the probationary period as determined by the Commissioner of Personnel.

A. [(a)] Half to full-time employees in salary schedule A shall serve a probationary period of six calendar months. Less than half-time employees shall serve a probationary period of nine calendar months.

B. [(b)] Half to full-time employees in salary schedule B shall serve a probationary period of two calendar months. Less than half-time employees shall serve a probationary period of three calendar months.

C. [(c)] Half to full-time employees in salary schedule C shall serve a probationary period of four calendar months. Less than half-time employees shall serve a probationary period of six calendar months.

D. [(d)] Teachers, institutional education administrators, and educational supervisors shall serve a probationary period of one year.

E. [(e)] Employees in the management compensation schedule shall normally serve a probationary period of twelve months. An appointing authority may reduce the length of an individual period to not less than nine months, provided the employee has demonstrated the ability to effectively perform the duties and responsibilities of the position and the training requirements of Persl 166 have been met. With the approval of the Commissioner of Personnel, the probationary period may be extended to provide sufficient time for individual managers to complete mandatory minimum training requirements provided the total probationary period does not exceed two years.

[The total unpaid] **Unpaid** [lease] **leave** exceeding ten or more work days shall be added to the length of the probationary period.

The probationary period shall include all regular service, excluding time served in emergency, provisional, or temporary employment.

An employee who is promoted prior to the completion of the probationary period to a higher position in the same occupational field and in the same department shall complete the probationary period in the lower position by service in the higher position. The appointing authority shall certify that employee for permanent status in the lower position at the end of the specified probationary period for such class, or its equivalent period following the employee's

original appointment to the position. In the absence of certification, the employee shall be deemed to possess permanent status.

When a probationary employee is granted a leave of absence to accept a position in the unclassified service, the unfulfilled portion of the probationary period in the classified service may be completed by service in the unclassified service position, subject to a positive recommendation of the appointing authority and approval of the Commissioner, provided that the work in the unclassified position is within the same department and general occupational field and is at least equivalent in difficulty and responsibility to the work in the position in the classified service.

All employees appointed from eligible lists other than the layoff list shall be subject to a probationary period beginning the date of the new appointment.

Employees transferred from the jurisdiction of one appointing authority to that of another appointing authority may be subject to a probationary period as provided by this section of the rules.

For the purposes of this rule, classes shall be considered to be in the same occupational field when the appointing authority determines, after an analysis of the positions involved, that it is possible to evaluate the probability of satisfactory service in one class by observing service in the other class.

Persl 106 Retirement. Employees in the classified and unclassified service subject to mandatory retirement provisions of the Minnesota State Retirement Act must retire at the end of the day of their birthday in the year they must retire and may not be an employee of the state after [mandatory retirement] **their 65th birthday**. (Minn. Stat. § 43.051) Employees in the classified and unclassified service subject to mandatory retirement provisions of the Teachers Retirement Act must retire at the end of the day on August 31 in the **academic** year in which they reach the age of 65 and may not be an employee of the State after mandatory retirement. (Minn. Stat. § 354.44, subd. 1a)

Persl 109 Layoff. The appointing authority may lay off an employee in the classified service by reason of abolition of the position, shortage of work or funds, or other reasons outside the employee's control which do not reflect discredit on the service of the employee.

Duties formerly performed by laid off employees may be assigned to other permanent employees who, in the opinion of the Commissioner, hold positions in an appropriate class.

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A. [(a)] Order of layoff. Layoff of probationary or permanent employees shall be made in inverse order of seniority by employment conditions in the class of work and agency or other organizational unit involved, provided, however, that for positions within a class requiring special licensure, certification or registration and for positions which consist of a formally recognized option within a class, seniority shall be applied within the area of specialization. Except as provided above, no probationary or permanent employee shall be laid off from any position while any provisional or temporary employee is continuing in a position of the same class in the agency or other organizational unit involved.

Where it is determined that two or more persons in the class in the agency or organizational unit in which layoff is being made have equal seniority, the order of layoff in such tie cases shall be in inverse order of the date of acquisition of permanent status in the class, except where otherwise provided in written contracts with exclusive bargaining representatives.

Where the determination of seniority as provided in this rule does not establish definite seniority differentials, the order of layoff shall be determined by the average of the last two service ratings, if there are two, or the last such rating if there is only one, and the employee with the lowest such average or rating shall be laid off first. If no service ratings are available, the order of layoff shall be determined by the appointing authority in such a manner as to insure the retention in the state service of those employees deemed most valuable, except where otherwise provided in written contracts with exclusive bargaining representatives.

B. [(b)] Seniority. Seniority for purposes of layoff or recall from layoff shall be the length of service in a specific class in a specific agency or organizational unit. Leave without pay **and trainee appointments**, except as provided elsewhere in [this] **these rules**, [trainee appointments except for permanent or probationary employees,] **and** service with a different agency or organizational unit, shall not count toward seniority in the class, agency, or organizational unit in which the layoff is taking place.

Seniority of an employee in the class to which that employee is demoted shall be limited to service in the agency. [Such] Seniority shall include the total time of the employee's prior seniority in the class from which the employee was demoted, as well as other classes which the Commissioner determines as being sufficiently similar to the class to which demotion occurs. Seniority shall begin on the date of original appointment and thereafter such seniority shall be increased each calendar day without interruption except:

1. [(1)] Upon termination.

2. [(2)] Upon interruption of service in the agency for any reason other than leave of absence or layoff.

3. [(3)] Upon expiration of eligibility for reappointment from the layoff list.

In the case of employees in a trainee class or an employee working under a provisional appointment, seniority shall be credited back to the date of hire at the time the employee begins to serve a probationary period in the same or related classification in the same department.

C. [(c)] Limited interruption of employment. Any interruption in employment not in excess of 15 calendar days, because of adverse weather conditions, shortage of materials or equipment, or for other unexpected or unusual reasons, shall not be considered a layoff.

D. [(d)] Layoff notice. The appointing authority shall notify the employee to be laid off at least 15 days before the effective date of such layoff in writing, and shall certify to the Commissioner the reasons for such layoff. In any case, when an appointing authority fails to certify before the effective date thereof that the layoff was for reasons not reflecting to the discredit of the employee, it shall be deemed a dismissal and shall be subject to the rules regarding dismissal.

In case of seasonal, intermittent, part time or other occasional appointment of employees with classified status, the appointing authority may indicate to the employee and the Commissioner at the time of the appointment the approximate date of termination of employment, and such notices shall be considered to meet the requirements of law. (Minn. Stat. § 43.23, subd. 2)

E. [(e)] Names of laid off employees to be placed on eligibility lists. The names of permanent or probationary employees laid off or demoted in lieu of layoff shall be placed in order of seniority on the layoff list for the class and agency or other organizational unit from which the layoff took place. The affected employees shall have their names placed also on the reemployment list.

F. [(f)] Organizational units. An appointing authority may propose subdivision of the agency into organizational units for the purpose of employment or layoff by submitting to the Commissioner a written plan for such subdivision, together with reasons therefor. The Commissioner shall consider such proposals and the needs of the state service, and may establish organizational units within agencies. Such organizational units may be established on the basis of geographic areas, function, class of employment, or funding when there are special Federal grants, and may be different for different classes of employment. The Commissioner shall notify the appointing authority of establishment

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of organization units and such units shall thereafter be used for employment or layoff.

The appointing authority shall post a copy of such notice or shall notify affected employees of the establishment of such organizational units.

The Commissioner may cancel established organizational units upon notice to the appointing authority at any time the Commissioner deems such action to be in the best interest of the state service.

Persl 129 Hours of work. Notwithstanding Persl 4 this rule applies to all classified and unclassified employees in the executive branch. Eight hours of work shall constitute a normal work day and forty hours a normal work week. At the request of the appointing authority, and [with the approval of the Commissioner, the work week may be adjusted] **after consultation with the Commissioner of Administration, the Commissioner may adjust the work week and/or work day of all or a portion of an agency** to meet the needs of the state service; however, in such instances, forty hours shall continue to constitute a normal work week. Lunch and rest periods shall be determined by the appointing authority.

No state department shall operate less than a forty hour week except under provisions of law which allow for specific holidays within the work week.

The Commissioner shall prescribe the actual hours of employment for all employees in the executive branch whenever such action in the Commissioner's opinion is in the best interest of the state service.

[Employees whose positions are assigned to the A, B and C and Special Teachers compensation schedules working an assigned shift beginning or ending between the hours of 7:00 p.m. and 5:59 a.m. inclusively shall receive a shift differential prescribed in Minn. Stat. § 43.12, subd. 16.]

[Employees working the regular day schedule who are required to work overtime or who are called back to work for special projects shall not be eligible for the shift differential.]

Persl 131 Holidays. Holidays will be observed as prescribed by the legislature. (Minn. Stat. § 645.44, subd. 5)

This rule applies to all classified employees and, notwithstanding Persl 4, all full-time unlimited unclassified

employees in the executive branch of government, except [hourly] **non-tenured laborers, temporary employees, emergency employees** and project employees. Holiday leave provisions may be established by the appointing authority for employees not covered by this rule.

The following days are holidays and an alternate day off shall be granted for work done on these days, except where payment is allowed under the overtime provisions of Persl 130.

New Year's Day	January 1
[President's Birthdays] Washington's and Lincoln's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25

A. [(a)] When New Year's Day, Independence Day, Veterans Day or Christmas Day fall on Sunday, the following day shall be considered the official holiday for employees. When these holidays fall on Saturday, the preceding day shall be considered the official holiday for employees. An employee, regardless of work schedule, shall receive the same number of holidays as an employee whose regular work week is Monday through Friday.

B. [(b)] The appointing authority in those agencies which remain open to the public for performance of public business may designate a sufficient number of employees to maintain the continuity of the agency's operations on such days.

C. [(c)] Holidays which occur within the employee's vacation or sick leave period will not be charged to the employee's vacation or sick leave time.

D. [(d)] Employees must be on the payroll on the work day immediately preceding and the work day immediately following a holiday to be eligible for such holiday.

For the purpose of determining eligibility for holiday pay, "on the payroll" shall mean those who are in pay status.

E. [(e)] Employees who work less than full-time or intermittent employees are compensated for holidays on the following basis:

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Hours that would have been worked during the pay period had there been no holiday

0 - 9
10 - 19
20 - 29
30 - 39
40 - 49
50 - 59
60 - 69
70 - 79
80

Holiday hours earned for each holiday in the pay period

0
1
2
3
4
5
6
7
8

Intermittent employees shall receive a holiday if they work the day before and the day after a holiday. If such intermittent employee works on a holiday, that employee will be reimbursed for the holiday in addition to the pay for the time worked. This pay shall be in accordance with the above schedule. Seasonal employees are entitled to holidays as defined in this rule.

F. [(f)] Employees who observe religious holidays on days which do not fall on a Sunday or a legal holiday shall be entitled to such days off to observe the religious holiday **upon 21 days advance written notice to the appointing authority**. Such days off to observe these religious holidays shall be taken without pay, or upon the election of the employee, may be charged against accumulated vacation leave. If the appointing authority can arrange to have the employee work an equivalent number of hours at another time during the fiscal year to compensate for the days lost for observance of religious holidays, these holidays may be taken against such hours actually worked.

Persl 133 Absence because of illness or injury for which workmen's compensation is paid by the state.

A. [(a)] Hazardous occupation injuries. Employees of the state corrections and welfare institutions, **the School for the**

Deaf, the Braille and Sight Saving School, highway patrol officers, conservation officers and crime bureau agents who incur a disabling injury in the ordinary course of employment may be eligible for injured on duty pay. In order to be eligible for such pay, employees must have been acting in a reasonable and prudent manner in compliance with established rules and procedures of the appointing authority when the injury is incurred. Such injuries must be the direct result of aggressive and/or criminal and/or overt acts, or their consequences, by a person in the custodial control of a correctional, **educational** or welfare institution, or the injury must have occurred while attempting to apprehend, restrain, or take into custody an institutional inmate or resident, or suspected violator of the law.

Eligible employees shall receive compensation in an amount equal to the difference between the employee's regular rate of pay and benefits paid under Workmen's Compensation. Such injured on duty pay shall not exceed an amount equal to 240 times the employee's regular hourly rate of pay for disabling injury, and shall not affect the employee's regular accrued vacation, sick leave, or overtime credits.

Persl 135 Vacation leave. This rule applies to all classified state employees in the executive branch except for [hourly] **non-tenured** laborers, emergency employees, project employees or temporary appointment employees and also applies to all full-time [unlimited] unclassified employees **appointed for a period in excess of 6 months** in the executive branch except [department heads, deputies and] those listed in Persl 4. Annual leave provisions may be established by the appointing authority for employees not covered by this rule **provided they are not specifically excluded from coverage**.

Each eligible **non-managerial** employee shall earn vacation with pay according to the rate listed below

HOURS OF VACATION ACCRUED DURING EACH PAYROLL PERIOD OF CONTINUOUS SERVICE

Number of Hours Worked During Pay Period	0 thru 5 years	After 5 thru 8 years	After 8 thru 18 years	After 18 thru 25 years	Over 25 years
0 - 9	0	0	0	0	0
10 - 19	¾	1	1¼	1½	1½
20 - 29	1	1¼	1¾	2	2
30 - 39	1½	2	2¾	3	3
40 - 49	2	2½	3½	3¾	4
50 - 59	2½	3¼	4½	4¾	5
60 - 69	3	3¾	5¼	5¾	6
70 - 79	3½	4½	6¼	6¾	7
80 and over	4	5	7	7½	8

When sick leave and/or annual leave is used in conjunction with the Workers' Compensation benefit, [An] an eligible employee receiving Workers' Compensation

benefits shall accrue vacation leave for the total number of hours compensated by Workers' Compensation, sick leave and annual leave.

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Changes in the rate of accumulation for eligible employees shall be made effective at the beginning of the next payroll period following completion of the specified amount of service.

Service shall begin on the date of state employment. Time on suspension or non-medical leave of absence without pay if at least one full payroll period in duration, except as otherwise provided by law or these rules, shall not be counted in determining the date of completion of a full year. An eligible employee being paid for less than the full payroll period of 80 hours will have vacation accrual pro rated for that payroll period. A vacation leave shall not be granted or accrued before completion of six calendar months of service. Upon completion of such period, vacation leave shall accrue to the employee from the beginning of the period of continuous service.

Departments or agencies may determine the time and establish schedules governing the use of vacation leave, except that in no instance will vacation leave be granted in increments of less than one-half hour except to permit utilization of lesser fractions that have been accrued.

Unused vacation leave may be accumulated to a total of [208] **224** working hours. Supervisors should make every effort to schedule vacation leaves for their employees on a regular basis each calendar year in order to reduce the possibility of an employee losing vacation or leave because of a maximum accumulation having been exceeded. An eligible employee on military leave, as provided by these rules, shall not be limited to the maximum accrual of vacation leave. Such employee may immediately upon reinstatement from military leave take all vacation in excess of the maximum accumulation. As an alternative, the employee may elect to be credited with the vacation leave in excess of the maximum accumulation, but such leave shall be taken at a time determined by the appointing authority within two years of the date of reinstatement.

Any eligible employee who is separated from the state service by layoff, resignation, death, or otherwise, shall be paid for the number of working hours of unused vacation leave accumulated to that employee's credit.

An employee who is transferred or accepts employment under the jurisdiction of a new appointing authority, or in the unclassified service of the state, or an unclassified employee who transfers to the classified service, without interruption of services to the state shall be entitled to credit of accumulated unused vacation leave earned in the employee's former employment. Notwithstanding Persl 4,

any state employee except an elected employee who is separated from the state service or who is transferred or accepts employment under a new appointing authority, is entitled to pay for any accumulated leave. (Minn. Stat. §§ 43.222, 43.223, 43.224)

Department heads and deputies of departments listed in Minn. Stat. § [15.01,] **15A.081, subd. 1** plus the **Department of Military Affairs** [Energy Agency, the Governor's Crime Commission, the Indian Affairs Board, the Higher Education Coordinating Board, the Investment Board, Iron Range Resources and Rehabilitation, Office of Hearing Examiner, the Pollution Control Agency, the State Planning Agency, and the Chancellors of the Community College System and the State University System] shall earn vacation pay at the rate of six hours per full payroll period. Covered department heads and deputies who currently are eligible to receive more than six hours per full payroll period shall continue to accrue at the higher rate.

Employees in positions designated as managerial shall accrue vacation leave in accordance with a schedule established by the Commissioner.

Persl 136 Sick leave. This rule applies to all classified state employees in the executive branch except for [hourly] **non-tenured** laborers, emergency employees, project employees, or temporary appointment employees and all full-time [unlimited] unclassified employees appointed for a period in excess of 6 months in the executive branch except those listed in Persl 4. Sick leave provisions may be established by the appointing authority for employees not covered by this rule **provided they are not specifically excluded from coverage**. Sick leave shall be earned by each eligible employee according to the rate schedule indicated below

HOURS OF SICK LEAVE ACCRUED DURING EACH PAYROLL PERIOD OF CONTINUOUS SERVICE

Number of Hours Worked During Pay Period	Less than [800] 900 hours	[800] 900 hours and maintained
0 - 9	0	0
10 - 19	¼	¼
20 - 29	1	½
30 - 39	1½	¾
40 - 49	2	1
50 - 59	2½	1¼
60 - 69	3	1½
70 - 79	3½	1¾
80 and over	4	2

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Changes in the rate of accumulation for eligible employees shall be made effective following the payroll period in which the [800] 900 hour maximum accrual is attained.

An eligible employee being paid for less than a full payroll period of 80 hours will have sick leave pro rated for that payroll period unless the employee is on Workers' Compensation, in which case sick leave would be accrued for the total hours compensated by Workers' Compensation, sick leave, and annual leave **provided that sick leave or annual leave is used in conjunction with the Workers' Compensation benefit.** Unused sick leave hours may be accumulated to a total of [800] 900 working hours. When the maximum limitation has been accumulated, the rate of accumulation will be reduced to two hours per full payroll period, and these hours shall be placed in a lapsed sick leave bank. Any employee who has such lapsed sick leave recorded may apply to the appointing authority to have the lapsed sick leave restored in the event of an extended illness. The appointing authority may authorize use of all or any part of the lapsed sick leave after thorough investigation, including submission of complete medical reports providing both a diagnosis and prognosis of the illness. The appointing authority shall report to the Commissioner all instances of lapsed sick leave restored in such form as prescribed by the Commissioner.

Time off on authorized sick leave will be deducted from the first [800] 900 hours. Once the employee no longer possesses [800] 900 hours of sick leave, four working hours for each full payroll period will be accumulated until the [800] 900 maximum limit is again obtained.

Employees may utilize their allowance of sick leave, without regard to length of service, on the basis of application to and approval by the appointing authority, where absence is necessitated by inability to perform the duties of the position by reason of illness, pregnancy, or pregnancy-related problems, or disability, by necessity for medical, dental, or chiropractic care, by exposure to contagious diseases under the circumstances in which the health of employees with whom they are associated or members of the public with whom they deal may be endangered by their attendance on duty, or by illness in their immediate family for such periods as their attendance shall be necessary. Employees may also utilize not more than three days sick leave for the birth or adoption of a child. The term "immediate family" shall be limited to the spouse, minor or dependent children, or parent living in the household of the employee and where the parent has no other person to provide the necessary nursing care. Either the appointing authority or the Commissioner may require medical examination, medical certificate, or statement from a chiropractor, as deemed necessary for approving the utilization of sick leave. A written statement from a Christian Science practitioner that the employee is a Christian Scientist and is

undergoing treatment may be accepted in lieu of a medical statement. Use of a reasonable period of sick leave shall be authorized in case of death of a spouse, the parents of a spouse, and the parents, grandparents, guardian, children, brothers, sisters, or wards of the employee. In no instance will sick leave be granted in increments of less than ½ hour except to permit utilization of lesser fractions that have been accrued.

Employees receiving injury on duty pay shall not have this time deducted from their regular accrued sick leave balance.

A former state employee who is reappointed within four years of separation from the state service under the provisions of the act and these rules except as a provisional, temporary or emergency appointee, may have previously accumulated, unused balance of sick leave revived and credited to that employee upon approval of the new appointing authority.

An employee who transfers to the jurisdiction of another appointing authority without interruption in service to the state shall be entitled to a credit in the new employment for the accumulated unused sick leave earned in the former employment.

An employee of a merit system jurisdiction or the federal competitive service with probationary or permanent status may transfer or be appointed to a position in the state service and may be credited with the amount of sick leave accumulated at the time of transfer, but not more than 12 days. Such credit shall be reduced proportionately as sick leave is accumulated in the state service.

Persl 141 [Maternity] **Child bearing/child rearing** leave of absence without pay. [Maternity] **A child bearing/child rearing** leave of absence shall be granted, when requested **incidental to the birth or adoption of a child, to a permanent, probationary, or unclassified** [pregnant employee] **natural parent** or adoptive [mother] **parent** [in the classified or unclassified service] for a period not to exceed 6 months. [Maternity] **Child bearing/child rearing** leave may be extended up to a total maximum of one year by mutual consent between the employee and the appointing authority.

Persl 144 Other leaves of absence without pay. Employees may be allowed to be absent from duty without pay as provided in law (Minn. Stat. § 43.22) with the approval of their respective appointing authorities under the following conditions:

A. [(a)] Such leaves shall be granted only when it will not result in undue prejudice to the interests of the state as an employer beyond any benefits to be realized.

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B. [(b)] An application for leave of absence for travel or study calculated to equip the employee to render more effective service to the state may be deemed to involve such compensating benefits to be measured against the prejudice to the state involved in keeping open the position or filling it temporarily until the return of the employee.

C. Leave, not to exceed one year, may be granted to an employee to accept a position of fixed duration outside of state service which is funded by a government or private foundation grant and which is related to the employee's current work.

D. With ten days advance request, leave shall be granted to an employee to attend a political party caucus or political convention.

The Commissioner shall refuse to approve any proposed leave without pay which is deemed contrary to the best interests of the state.

Persl 160 The development policy. The Commissioner shall set policy, administer and conduct programs of training [and counseling] for the effective development and utilization of classified and unclassified employees, to promote individual, group and departmental efficiency and effectiveness. **Training and development is a management tool and as such is utilized at the discretion of the department head. Nothing in these rules should be construed to mean that specific application of this process is a right of the employee. While the primary emphasis of training and development is to improve the state service, it should not be seen as incompatible or inconsistent with the growth of individual employees. The state, through each operating agency has an obligation to provide assistance to employees in reaching specific career goals. The form and level of this assistance is determined by the department head.**

A. Development defined. Employee development is an on-going process intended to help employees attain and maintain a quality of job performance that meets the needs of the state and the needs of individual employees. Development includes a variety of planned, purposeful activities and experiences designed to improve and/or increase the skills, knowledge and abilities of employees. Typical activities and experiences include project assignments, task force assignments, supervisory coaching, internal job assistance, orientation, job rotation, interchanges, classroom instruction and independent study.

B. Training defined. Training is a specific means or

method of employee development. It consists of formal, systematic and structured activities that meet specific, predetermined learning objectives designed to directly improve and/or increase the knowledge, skills and abilities of employees. Formal training usually refers to group instruction or structured independent study. Academic or technical courses, seminars, workshops, institutes, correspondence courses, individualized reading programs, programmed instruction and computer assisted learning are typical examples of formal training. Conferences, conventions, informational meetings, site visitations are usually not included in formal training.

C. Individual development planning. Each employee shall be counseled in terms of development and complete an Individual Development Planning Worksheet on an annual basis. First priority for expenditure of state funds will be given to those activities included in the Individual Development Plan.

D. Participation in training. Employees may be selected to participate in training and development activities in two ways:

1. Job assignment. Assigned by the department to participate as a specific work assignment. The employee must participate in order to carry out the basic responsibilities of the job.

2. Employee initiated. At the discretion of the department head, employees may be allowed to participate in non-assigned programs to meet specific training and development needs. Participation in these programs must be beneficial to both the organization and the employee.

Persl 161 Training standards.

A. [(a)] Training time. [The Commissioner shall develop guidelines for the amount of time employees spend in training programs. These times shall be reviewed periodically and updated as necessary. Training time shall include both time spent in formal programs, as well as on-the-job training. Where appropriate, the Commissioner shall determine minimum training times for specific programs.] Department heads can assign employees to participate in training and development programs as part of their regular job. The amount of time spent in programs of this nature is determined by the department head.

The department head can approve participation in employee initiated programs:

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1. At the department head's discretion, employees may be allowed to participate in programs up to 100 hours of work release time each fiscal year. The department head is authorized to grant release time for travel to and from training programs. If granted the travel time is included within the 100 hour maximum.

2. At the department head's discretion, employees may be granted a leave of absence for training that goes beyond the 100 hour limitation provided the granting of such leave will benefit the state. Leaves of absence are governed by Persl 161 (d).

3. Employees are restricted to either release time or tuition reimbursement for employee initiated training, but not both. The department head shall determine if release time or tuition reimbursement is to be granted.

B. [(b)] Expenses and reimbursement. [The Commissioner by policy shall determine the expenses for training programs which may be reimbursed. Such reimbursement shall include expenses such as tuition, registration, laboratory and other required fees.]

[Expenses and reimbursements authorizations shall be reviewed annually. No expenditures can be made unless funds are available for such training.] **Each operating department is responsible for all necessary and legitimate expenses incurred as a result of employee participation in job assigned training and development activities.**

The department head may approve reimbursement for expenses incurred in employee initiated training:

1. 75% of the tuition or registration costs.

2. Reimbursement for employee initiated courses and programs is contingent upon available funds within each operating department.

3. Full reimbursement for necessary books, materials and fees provided:

a. Books and reusable materials do not become the sole property of the employee.

b. The fees and expenses are not for similar services which are already provided by current state benefits.

c. The fees and expenses are for services that are directly related to the specific training course or program.

4. Employees are restricted to either release time or tuition for employee initiated training, but not both. The department head shall determine if release time or tuition reimbursement is to be granted.

C. Special programs. Special programs providing for training and development in excess of the above standards may be established with prior approval of the Commissioner. These programs are optional at the discretion of the operating department and are limited by available funds.

D. [(c)] Leaves of absence for training. Leaves of absence may be granted to employees for work-related programs consistent with the training and development policy of the state. Employees may be granted leave with or without pay, depending on the nature and length of the training program, as well as the benefits to the state. Leave of absence with pay shall be approved by the Commissioner prior to authorization. The Commissioner may identify in advance the types of programs, including stipend programs, for which leave of absence with pay is authorized, and in those instances, such authorization by the Commissioner shall be deemed approval.

Persl 166 **Mandatory training.** Employees appointed to a position or class which has a training requirement that must be met before the employee gains permanent status shall have one year from the date of appointment to fulfill this requirement. The employees shall gain all rights, privileges and benefits at the end of the normal probationary period as defined in Persl 101 with the exception that the employee may be terminated from that position if the training requirements are not met prior to the completion of the first year after appointment. The probationary period for employees assigned to the management compensation schedule may be extended to a maximum of two years to provide sufficient time to complete mandatory training requirements. The Commissioner may direct the appointing authority to initiate the appropriate transaction to either demote the employee to the class from which promoted, or terminate the employee if the employee had been hired directly into the current class. (Minn. Stat. § 43.22, subd. 10)

Persl 167 **Career training programs.** Within available resources, and with prior approval of the Commissioner, each department head shall identify and provide special career training programs for state employees. Special career training programs are those designed to assist employees in meeting their career objectives. Department involvement in these programs is limited to areas related to the activities of the various state agencies. Programs established under this rule may provide for training and development beyond the standards established in Persl 161.

Persl 168 **Reimbursement of training expenses to the state.** Employees who participate in training programs on state time or in training programs which are funded in whole or in part by state funds are obligated to return to a state job for a minimum period of twice the length of the training program. Department heads may establish

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greater time commitments for special programs. Employees who fail to fulfill the minimum time commitments are required to reimburse the state for the actual costs of the training plus all salary paid for actual time spent in training activities.

Chapter Fourteen **Human Resource** [Manpower] Planning and Designation of Managerial, Professional and Supervisory Positions

Persl 170 **Human resource** [Manpower] planning. The Commissioner shall develop and implement a comprehensive state-wide **human resource** [manpower] planning program to identify, evaluate and develop present and future [manpower] **human resource** needs of the state. The program shall be developed in cooperation with state department heads. The Commissioner shall take any action necessary in the development and implementation of the program to meet state personnel requirements.

Department heads shall supply all necessary employee information, employment projections, and necessary documentation on request of the Commissioner to provide an accurate basis for a [manpower] **human resource** planning program.

The [manpower] **human resource** planning program developed by the Commissioner, together with any subsequent amendments, shall be reported to each appointing authority. Appropriate recruitment, training programs and staff development efforts will be carried out to insure effective implementation of the program.

Persl 172 Certification to **occupational** [employment] categories. Each classification shall be assigned to an occupational category by the Commissioner such that a state employee [s] can clearly identify the category to which [their] **his or her** class is assigned. The Commissioner in assigning classes to categories shall take into consideration the major thrust of positions in a class, the categorization of similar positions in other public and private employment, the definition of categories, and other criteria contained in this rule.

Classes [designated in] **assigned to** the same occupational category shall, where practicable, be subject to similar treatment with respect to selection, compensation policies, training, and development. The Commissioner shall designate classes as being managerial, professional, technical/paraprofessional, office/clerical, craft, operative, laborer, or service. These categories are defined in Chapter [Nineteen] **18**.

Those classes where incumbents function as supervisors shall also be designated as being supervisory. The term "supervisor" is defined in Chapter [Nineteen] **18**. Classes assigned to the managerial category are assumed to be supervisory in nature and need only be designated as managerial.

[Consideration shall be given to the following criteria before assigning classes to categories:]

[(a) Classes assigned to the managerial category should be at a level where incumbents are accountable for dealing with significant administrative issues. For the purpose of this rule, first and second level supervisory classifications are generally not to be considered managerial.]

[(b) Classes assigned to the professional category shall be those commonly considered to require knowledge of the principles and practices of an academic field or discipline at the journeyman level in a class series.]

[Entry level classes in a series may be designated as professional provided that the journeyman and higher levels in the series are considered to be professional.]

[(c) Classes where incumbents may be expected to function as leadworkers are not to be designated as supervisory.]

Unclassified positions in the executive branch shall be categorized in the following manner:

A. [(a)] Those positions compared to positions in the classified service shall be [designated in] **assigned to** the same occupational category as the comparable classified position.

B. [(b)] The positions of department heads and their deputies [shall be considered to be] **are** managerial.

C. [(c)] All other classifications shall be assigned to occupational categories on the basis of the nature of work performed and the definitions and criteria established for the classified service.

Appointing authorities may request, in writing, that the Commissioner reconsider the categorization of a classification. The Commissioner shall review each such request and shall notify the appointing authority of the final determination in writing.

Persl 181

A. [(a)] Means of travel.

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PROPOSED RULES

1. [(1)] State-Owned vehicles. An employee may be permanently assigned a state-owned vehicle when required by law or if circumstances make such assignment necessary when recommended by the appointing authority and approved by the Commissioner of Administration.

Departments operating vehicles not in the Central Motor Pool shall operate them on a pool basis following rules of the Department of Administration for the operation of such state-owned vehicles.

2. [(2)] Privately-Owned automobiles and aircraft. The compensation for use of a personal automobile is [15¢] **16¢** per mile when a motor pool vehicle is not available. Mileage shall be paid based on the most direct route according to [Highway] **Transportation** Department records. Deviations from the shortest direct route, such as vicinity driving or driving from the employee's residence where the employee's residence becomes the point of departure, shall be shown on the expense account as a daily total, with a separate explanation outlining the reasons for such mileage. No additional reimbursement will be made for incidental expenses to the operation or maintenance of a personal automobile for state business except for payment of toll charges and parking.

The employee who elects to use a personal car on official state business with the approval of the appointing authority when traveling within the state in cases where a motor pool vehicle is available shall be reimbursed at the rate of [10¢] **11¢** per mile. The higher rate may be paid if the use of the motor pool vehicle would have resulted in a greater cost to the state than the reimbursement of the personal car rate. The reimbursement for mileage shall be adjusted as follows:

A "base rate" gasoline price shall be established by computing the average price per gallon of gasoline delivered to the Central Motor Pool during the month of April, [1975] **1977**. A "new rate" shall be calculated in the same manner for each month commencing in July, [1975] **1977**. The difference, if any between the "base rate" and the "new rate" shall be added to the sum of any changes in federal or state gasoline taxes levied on or after April 1, [1975] **1977**, and such total shall be referred to as the "adjusted difference". Effective the second month following the computation of the "new rate", mileage reimbursement rates shall be increased or decreased by 1 cent for each full 10 cent increase or decrease in the "adjusted difference". In no event shall such mileage rates be less than the rates of [15] **16** cents or [10] **11** cents as set forth above.

The appointing authority may authorize travel in personal aircraft when it is deemed in the best interest of the state. Mileage reimbursement in such cases shall be 25¢ per mile

and shall be based on the shortest route based on direct air mileage between the point of departure and the destination.

3. [(3)] Out-of-State travel. Payment for expenses for transportation by personal vehicle for out-of-state travel shall be made on the basis of a single coach air fare for each vehicle used.

If available, motor pool vehicles or state-owned vehicles may be used for out-of-state travel. When a central motor pool vehicle is used, reimbursement will be made to the Central Motor Pool. The expense of such vehicles shall be charged against the out-of-state authorization of the department.

When personal vehicles are used in driving to out-of-state locations not available by commercial transportation, travel reimbursement shall be made on an actual mileage basis in accordance with these rules.

Any in-state travel expense directly related to an out-of-state trip shall be charged against the annual out-of-state travel allowance for the department involved.

4. [(4)] Commercial transportation. State employees may travel in-state and out-of-state by commercial transportation when authorized by the department head. Air transportation shall be by coach class except in those instances where such space is not available. When an employee has a reservation for a flight that is not going to be used, such employee shall be accountable for the cancellation of such reservation. Air charter service may be used for in or out-of-state travel where such charter service is more practical than commercial transportation.

5. [(5)] Motorcycle reimbursement. Reimbursement for use of a motorcycle on official state business, when authorized in advance by the appointing authority, shall be at the rate of 8¢ per mile. This rate shall not be subject to the escalator provision of Persl 181(a) (2).

B. [(b)] Meals and lodging.

1. [(1)] Employees shall claim reimbursement only for the amount actually paid for meals when in a travel status. The amount must be reasonable, taking into consideration the location in which the meal is obtained.

Maximum reimbursement, including sales tax for meals within the state, shall be [\$2.25] **\$2.45** for breakfast, [\$2.75] **\$2.95** for lunch, and [\$5.50] **\$5.90** for dinner.

Maximum reimbursement, including sales tax for meals outside the state and on trains shall be [\$3.00] **\$3.20** for breakfast, [\$3.50] **\$3.70** for lunch, and [\$7.50] **\$7.90** for dinner.

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The maximum reimbursement for meals shall be increased based upon the food away from home component of the consumer's price index for urban wage earners and clerical workers for Minneapolis-St. Paul, new series index (1967=100).

The base period for any adjustment shall be the July, [1975] **1977** index and the April, [1976] **1978** index. For each full 1.5 points rise in the food away from home component of the index during the base period, the maximum reimbursement for dinner shall be increased 5 cents effective July 1, [1976] **1978**. The maximum reimbursement for breakfast and lunch shall each also be increased by one-half of the amount of the increase for dinner. If the increased maximum reimbursements for breakfast and lunch results in an amount not equally divisible by five the maximum reimbursement for breakfast shall be rounded-down to the next amount divisible by five, and the maximum reimbursement for lunch shall be rounded up to the next amount that is equally divisible by five.

Reimbursement for an official breakfast, luncheon, dinner, or banquet meeting shall be the actual cost of the meal.

An employee [on] **in** a travel status between employee's work station and a field assignment may claim reimbursement for meals under the following circumstances:

1. [(a)] **Breakfast**, providing the employee leaves home before 6:00 a.m. and is away from the permanent or temporary station.

2. [(b)] **Dinner**, providing such employee returns home after 7:00 p.m. and is away from the permanent or temporary station.

3. [(c)] **Employees may be reimbursed for noon meals** if the employee is in a travel status. Employees stationed in the seven-county metropolitan area shall not be reimbursed for meals obtained in the seven-county metropolitan area except when properly authorized as a special expense in section (d) below. In other areas the cost of a noon meal shall only be reimbursed where such employee would not ordinarily have incurred such a cost and the employee is considered in a travel status. Any request for reimbursement under this section shall include a statement in writing that the employee has complied with provisions of this section of the rules.

Because of variances in in-state and out-of-state hotel or motel accommodations, no fixed amounts are prescribed. It is the responsibility of the appointing authority to instruct

the employee to use good judgment in incurring lodging costs. Charges shall be reasonable and consistent with the facilities available.

C. [(c)] **Other fees and expenses.**

1. [(1)] **Parking fees.** Employees using state-owned or private vehicles shall be reimbursed on an actual expense basis. Charges shall be necessary and reasonable, and consistent with the facilities available. When receipt or other evidence of payment is issued to the employee, such receipt must be submitted with the expense reimbursement request.

2. [(2)] **Telephone calls.** Telephone calls between state offices and cities shall be made using the state telephone network if at all possible. When the state telephone network is not readily available, employees should use a WATS line where such lines are available. Use of either the state telephone network or the WATS line is explained in the state telephone directory.

In cases where it is necessary to place a regular long distance call, the employee should request that the operator bill the call to the home office telephone number. If an employee pays cash for a long distance call, reimbursement for such calls may be obtained by using an employee expense report.

State personnel who must frequently place long distance telephone calls may be eligible for a telephone credit card. The procedure for obtaining a state telephone credit card is explained in the state telephone directory.

3. [(3)] **Personal expenses.** Personal expenses for purpose of this rule are defined as dry cleaning, laundry, and baggage handling. Employees continuing in a travel status in excess of one week who do not return home during that week may claim reimbursement not to exceed \$3.50 per week for laundry or not to exceed \$2.00 for dry cleaning and pressing expenses for each week after the first week. If an employee returns home during a period of time in which an employee continues in a travel status, the employee is not eligible for reimbursement for laundry, dry cleaning or pressing in the subsequent week after such return. Receipts must accompany the claim for reimbursement. The employee's judgment is to be used regarding baggage handling expense. No reimbursement shall be made for personal phone calls, valet service, or similar personal expenses.

D. [(d)] **Special expenses.** Special expenses shall require prior approval of the appointing authority and the approval

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of the Commissioner of Personnel, who shall issue guidelines regarding eligible special expenses. This section also applies to any state board, council, or commission member.

E. [(e)] [General provisions (1)] Station assignments. The appointing authority shall assign employees permanent or temporary stations with such assignments to be in the best interest of the state and travel origin and records shall be based on these permanent or temporary assigned stations. A department head reporting deviation from this provision shall submit a request in accordance with the rules relating to special expenses. Employees away from such designated stations on unfinished assignments may be allowed mileage reimbursement for trips to their stations on alternate weekends. An employee may return to the station each weekend at state expense if the cost of such return is less than that of remaining in the field.

F. [(f)] Payment of expenses.

1. [(1)] Expense accounts. Expense accounts for all state employees shall be submitted to the Commissioner of Finance on the prescribed form (see Accounting Procedures Manual, Section E-2). If a receipt is required and the receipt has been lost or is otherwise unavailable, an affidavit stating the facts covering the expenditure shall accompany the expense account.

A department may be billed directly for expenses such as registration or conference fees, travel agencies, hotels and motels. Such billings shall include the name of the employee and the nature and date of the expense. Payment shall be processed promptly and charged to the allotment classification for travel.

2. [(2)] Advances. A department may upon request advance an estimated amount for approved travel expenses, if greater than \$50.00, to an employee who will be traveling on state business.

The authority for advance of travel expense payments may not exceed the maximum allowance permitted under state travel regulations.

In the case of travel expense advances departments having imprest cash funds shall make the advance from such accounts if possible. In other instances, departments shall prepare a statement with supporting expense voucher clearly stating the advance is being made under provisions of Minn. Stat. § 43.33. In all cases after the actual expense is determined, a final employee report for the trip and/or period for which the advance was made shall be prepared and forwarded to the Department of Finance. The advance payment transaction date and transaction number must be shown on the final employee expense report. The final expense voucher shall include the number of the state warrant covering

the advance payment. If additional payment is due the employee, an additional state warrant shall be prepared in the usual manner. If an advance payment exceeds the actual expenses, the employee shall return the excess which shall be deposited in accordance with provisions established by the Commissioner of Finance.

G. [(g)] Insurance. Department heads shall require proof of automobile liability insurance in the minimum amount required by law before approving travel involving private automobile mileage allowance.

Any employee flying a personal aircraft on official state business must show proof of adequate liability insurance coverage by a firm licensed to do business in Minnesota. Such coverage shall be in an amount of \$50,000 minimum for each passenger seat, \$50,000 per person, and \$150,000 per accident for public liability for bodily injury, and \$50,000 property damage.

It shall be the responsibility of the employee to immediately notify the appointing authority of any change in insurance coverages under such employee's automobile and aircraft liability insurance.

H. [(h)] Automobile leasing. An employee may be reimbursed for car rental expenses where the use of a state car in the conduct of state business is not possible and the use of a rental car is the only or the least expensive method of transportation. An employee using such rental car must indicate the need for the rental and attach an itemized statement for the rental upon requesting reimbursement.

Persl 182 Relocation expenses.

A. [(a)] Authorization. An employee shall be reimbursed for relocation expenses under the provisions of this rule if the conditions of Persl [182(b)(6)] **182B.6.** are met and if:

1. [(1)] The appointing authority determines that an employee is required to be transferred or reassigned to a different work station, when the transfer or reassignment is not for the employee's sole benefit, or

2. [(2)] The employee must change residence as a condition of employment, or

3. [(3)] The employee accepts an appointment at a higher salary range, or

4. [(4)] The employee is reassigned, transferred or demoted to a vacant position in the employee's state department or agency due to the abolishment, transfer of the function to another governmental jurisdiction or private enterprise, removal to a new location or to another state agency of all or a major portion of the operations of the employee's appointing authority.

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An employee transferred under these conditions shall receive prior authorization before incurring any expenses authorized by this rule.

An employee who is demoted during the probationary period after the trial period, shall receive [these] **those** relocation expenses provided in section [(b) (3) and (b) (4)] **B.3. and B.4.**

Relocation expenses authorized by this rule may be paid to a person initially accepting employment in the state service with the advance approval of the Commissioner. Payment shall be made only after the person becomes a state employee.

B. [(b)] Relocation expenses covered.

1. [(1)] Travel status. An employee transferred or re-assigned at the convenience of the state service as defined in paragraph [(a)] **A.** above shall be considered in a travel status for a period of up to sixty days and shall be authorized to be reimbursed for return to such employee's original work station once a week. During the first sixty days the state may also reimburse the cost of transporting the employee's spouse twice during such period, including the cost of mileage, meals and lodging, but not to exceed a total period of seven calendar days. In addition, the state may reimburse the employee's family for reasonable transportation costs to the new work station at the point that the move is made, including mileage, meals and lodging. Such expenses shall be reimbursed consistent with these rules.

2. [(2)] Realtor's fees. The state may pay the cost of realtor's fees on the home being sold by the employee but in no case shall such payment exceed [\$2,000.00] **\$3,000.00.**

3. [(3)] Moving expenses. The state shall pay the cost of moving and packing of household goods. The employee shall obtain two or more bids for packing and moving of household goods. Approval shall be given by the appointing authority before authorizing a mover to pack and ship household goods. The state shall also pay for the cost of moving house trailers where that is the domicile of the employee, including the cost of transporting blocks, skirts, or other attached fixtures. The employee shall obtain two or more bids.

4. [(4)] Miscellaneous expenses. The employee shall be reimbursed up to a maximum of \$250.00 for miscellaneous expenses directly related to a move. Such expenses shall be reimbursed when supported by documentation. These expenses may include such things as disconnecting and

connecting appliances and/or utilities, or other costs associated with the purchasing or rental of a new residence not covered elsewhere in this rule.

5. [(5)] Liability. Neither the State of Minnesota nor any of its agencies shall be responsible for loss or damage to any employee's household goods or personal effects as a result of such transfer.

6. [(6)] Eligibility. In order to be eligible for any payment of moving expenses or to be eligible for reimbursement of and expenses under this section, the new permanent work station shall be at least 35 miles from the current work station or to change in residence required by an appointing authority as a condition of employment.

Persl 203 "Allocation" means the original assignment of an individual position to an appropriate class, **or changes in assignment resulting from changes in the organizational structure of an agency or abrupt changes in the duties of a position**, on the basis of the kind, difficulty, and responsibility of the work performed in the position.

Persl 224 "Occupational category" means **one of the groups of classes established under Persl 172.**

The following rules are renumbered:

Persl [224] **225** "Office/Clerical"

Persl [225] **226** "Open Competitive List"

Persl [226] **227** "Operative"

Persl [227] **228** "Organization Unit"

Persl [228] **229** "Original Appointment"

Persl [229] **230** "Overtime"

Persl [229 (a)] **231** "Part-time Employee"

Persl [230] **232** "Permanent Employee"

Persl [231] **233** "Pre-Service Trainee"

Persl [232] **234** "Position"

Persl [232 (a)] **235** "Probationary Employee"

Persl [233] **236** "Probationary Period"

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Persl [234] **237** "Professional"

Persl [235] **238** "Promotion"

Persl [235 (a)] **239** "Provisional Employee"

Persl [236] **240** "Reallocation"

Persl [237] **241** "Reemployment List"

Persl [238] **242** "Seasonal"

Persl [239] **243** "Service"

Persl [240] **244** "Statewide Promotion List"

Persl [241] **245** "Student Worker"

Persl [242] **246** "Supervisory"

Persl [243] **247** "Technical/Paraprofessional"

Persl [243 (a)] **248** "Temporary Employee"

Persl [244] **249** "Transfer"

Persl [244 (a)] **250** "Unlimited Employee"

Persl [245] **251** "Veteran"

Persl [246] **252** "Veterans' Preference"

Persl [247] **253** "Work Assignment, Change In"

Persl [248] **254** "Working Day"

OFFICIAL NOTICES

Department of Commerce Insurance Division

Notice of Intent to Solicit Outside Opinion on Proposed Rules Governing the Minnesota Comprehensive Health Insurance Act of 1976

Notice is hereby given that the Department of Commerce, Insurance Division, shall entertain additional considerations for proposed rules for the implementation of the Minnesota Comprehensive Health Insurance Act of 1976 (Laws of 1976, ch. 296, as amended). Prior notices of solicitation of information were published in the *State Register* Vol. 1, pp. 1287 and 1526. Subsequent to said solicitation, Laws of 1976, ch. 296 was amended by Laws of 1977, ch. 409. In light of said amendment additional considerations which incorporate the recent legislative changes shall be entertained if submitted prior to October 14, 1977.

All interested persons or groups are requested to submit their considerations relating to: (1) the administration of the Comprehensive Health Insurance Plan, including bid specifications for the selection of a writing carrier, guidelines for the acceptance of reinsurance by the Minnesota Comprehensive Health Association, and the selection of policies of accident and health insurance to be offered by the Minnesota Comprehensive Health Association; and (2) criteria to be used by the Commissioner of Insurance in the evaluation of policies of accident and health insurance submitted by insurers for certification pursuant to Section 5 of the Minnesota Comprehensive Health Insurance Act.

Proposals, information and comment shall be submitted in writing and may be addressed to:

John T. Ingrassia
Supervisor, Life & Health Section
Insurance Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

All proposals, information, and comment must be received by October 14, 1977.

Berton W. Heaton
Commissioner of Insurance and
Chairman, Commerce Commission

Ethical Practices Board

Advisory Opinion No. 35, on Constituent Service Expenses Paid for Personally by a Legislator

August 3, 1977

Issued to:

Representative Tom Stoa
State Office Building
St. Paul, Minnesota 55155

Syllabus

35 Constituent Service Expenses Paid
for Personally by a Legislator

Constituent service expenses paid from personal funds of a legislator for a legislative questionnaire or report during a non-election year and in an election year through the end of the legislative session¹ need not be reported to the Ethical Practices Board since they are not campaign expenditures.

Text

You have requested an advisory opinion from the Minnesota Ethical Practices Board based upon the following:

Facts

As a member of the Minnesota Legislature, you would like to send a legislative questionnaire to your constituents during the non-election year. You wish to use your personal funds in lieu of the funds in the treasury of your principal campaign committee to pay the expenses of these constituent services.

Question

Since expenses for constituent services in non-election years are not considered to be campaign expenses, do such expenditures need to be reported to the Ethical Practices Board if the expenditures are paid for by the legislator out of his personal funds?

Opinion

In the opinion of the Board, the answer to this question is no. Pursuant to Minn. Stat. § 10A.01, subd. 10 (1976),² the

¹ For purposes of the opinion, "legislative session" means the period from January through the day of adjournment of the legislature in an election year.

² Minn. Stat. § 10A.01, subd. 10. "Expenditure" means:

(a) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of influencing the nomination for election or election of any candidate to office; or

(b) A transfer of funds between political committees or political funds.

"Expenditure" does not include: (a) Services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political fund; or (b) expenses incurred by a member of the legislature or a person holding constitutional office in the executive branch, in performing services for constituents. The board shall have the power to determine whether the expense was incurred primarily for the purpose of providing a constituent service or is an expenditure within the meaning of this subdivision.

Harold Chase
Chairperson

OFFICIAL NOTICES

Board determined in Advisory Opinion No. 24 that legislative questionnaires and newsletters are not campaign expenditures when distributed to constituents in non-election years and in election years through the end of the legislative session. It thus follows that during a non-election year and in an election year through the end of the legislative session, the costs of legislative questionnaires and/or legislative reports need not be reported to the Board if the legislator pays such costs from his personal funds rather than from the funds in the treasury of his principal campaign committee.

However, since expenses incurred in sending legislative reports or questionnaires to constituents in an election year after the last day of the legislative session but before the November election are campaign expenditures, these expenses must be reported to the Board even if they are paid for from the legislator's personal funds.

These opinions are consistent with Advisory Opinion No. 19 which states in part as follows:

One of the functions of a legislator is to report to his constituents on possible legislative action and to obtain their opinions on matters which come before the Legislature so that he may represent them during the session. Any activities designed to enable him to fulfill that function are legitimate constituent services, even though they may have an incidental effect on the legislator's chances for re-

election. Even though a Senator or Representative need not underwrite these activities from his campaign funds, there is no reason why he cannot do so if he wishes. He or the political committee making the expenditure should then report the expenditures as non-campaign expenses.

Ethical Practices Board Preliminary Agenda for Meeting

August 19, 1977
State Office Building, Room 22
1:30 P.M.

1. Minutes (August 3, 1977)
2. Chairperson Report
3. Legal Counsel Report
4. Public Information Policy
5. State Historical Society
6. State Employees — Code of Ethics
7. Policy Question — Economic Interest
8. Confidentiality Policy and Procedures
9. Minn. Stat. § 10A.27, subd. 2 and subd. 4
10. Executive Director Report
 - a) Financial Report
 - b) Delinquent Lobbyists
11. Executive Session Pursuant to Minn. Stat. § 10A.02, subd. 11

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